



Town of Superior



Zoning Code

Fiscal Year 2022-2023

Town of Superior

Zoning Ordinance

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ARTICLE I – TITLE, PURPOSE, AND SCOPE

§ 1.0 SHORT TITLE

This Ordinance shall be known as and may be cited as the "Town of Superior Zoning Ordinance". All appendices, exhibits and/or maps within this Ordinance are hereby adopted and shall be incorporated herein as a part of this ordinance.

§ 1.1 PURPOSE AND INTENT

- A. The purpose of this Zoning Ordinance, and the intent of its application, is to provide the minimum requirements for the implementation of the General Plan; promote the public interest, health, comfort, safety, convenience, and general welfare; to protect the character and the stability of residential, business, recreational, and industrial areas of the community; to guide, control and regulate the future growth and development of the Town of Superior; and to provide for adequate light and air, avoidance of overcrowding of land and excessive concentration of population by establishing land use classifications and by imposing regulations on the use of land, on the location, height and bulk of buildings and structures, and by establishing standards for design and development.
- B. This Ordinance establishes procedures, offices, boards, and commissions for the enforcement, interpretation, and processing of zoning amendments, variances, special and conditional use permits, site plan review, appeals, and for violations and penalties for infractions of these zoning regulations.
- C. All buildings, structures, and uses of land, constructed, altered, or developed, shall be subject to all applicable provisions of this Ordinance.
- D. All changes to distinguishing traits or primary features or the use of a building or land, as evidenced by increased parking requirements, change of occupancy, change of outside storage, or other features, occurring to existing properties after the effective date of this Ordinance shall be subject to all provisions of this Ordinance. The use of a building or land shall refer to the primary or specific purpose for which the building or land is occupied, designed, intended, or maintained.

§ 1.2 FILING FEES

The Town Council may, from time to time, establish and set, by resolution, the amount of charges for all planning and zoning applications within the jurisdiction of the Town. The developer/applicant shall, at the time of filing, pay to the Town those established planning, and zoning fees. These fees have been established to cover processing costs, whether or not a permit application has been approved, and shall be nonrefundable.

§ 1.3 INTERPRETATION

- A. The standards and restrictions established by this Ordinance shall be held to be the minimum requirements for the promotion of the General Plan, and for the interpretation and administration of zoning regulations, standards, restrictions, uses, procedures, enforcement, fees, administration, and all other areas addressed herein.

- B. It is not the intention of this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those zoning and building ordinances specifically repealed by this Ordinance, or with restrictions placed upon property by covenant, deed, easement, or other agreement between parties, provided that where this Ordinance imposes higher standards or a greater restriction on land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this Ordinance shall prevail.
- C. This Ordinance supersedes any other Zoning Ordinance previously adopted by the Town of Superior.

§ 1.4 APPLICABILITY

- A. This Ordinance shall govern the development and the use of land and structures within the corporate limits of the Town. No building, structure, or land shall be used or occupied, and no building, structure, or land shall be developed, and no permit shall be issued for any building, structure, or land unless it is in conformity with all applicable provisions of this Ordinance.
- B. All conditional uses which have been legally approved and established shall be permitted to proceed under such approvals, provided that the person, firm, or corporation that obtained such conditional uses have also obtained building permits for the buildings and structures to be constructed, and have begun substantial construction within twelve (12) months of the approved conditional use, unless the Planning Commission approval of such conditional use was either granted a longer period of time or, upon request of the applicant, was granted an extension of time.

§ 1.5 ENFORCEMENT

This Ordinance shall be enforced by the Town Manager, or his/her designee, who shall in no case grant permission for the issuance of any permit for the construction, reconstruction, alteration, demolition, movement or use of any building structure, lot, or parcel if the Town Manager, or his/her designee, determines that the building structure, lot or parcel as proposed to be constructed, reconstructed, altered, used, or moved would be in violation of the provision of this Ordinance, unless directed to issue such permit by the granting of a variance by the Board of Adjustment.

§ 1.6 VIOLATIONS AND PENALTIES

- A. It is hereby declared to be unlawful to construct, erect, install, alter, change, demolish, maintain, use, or permit the construction, erection, installation, alteration, change, maintenance, or use of any building, structure, or land contrary to, or in violation of, any provision of this Ordinance, or of any provision designated as a condition of approval either by the plan review process or through an amendment, special or conditional use permit, variance, site plan, design review, or appeal by an office, board, commission, committee, or the Town Council, as established by this Ordinance.
- B. Unless otherwise provided in this Ordinance, any person, firm, or corporation found to be violating any of the provisions of this Zoning Ordinance and any amendments thereto, shall be guilty of a Class One misdemeanor, punishable as provided in Article 1-8 of the Superior Town Code; and each day of violation continued shall be a separate offense, punishable as described.

- C. It shall be unlawful, and considered a public nuisance per se, to make use of any lot, parcel or piece of property in such a way as to conflict with the provisions of this Ordinance. Likewise, it shall be in violation of this Ordinance to erect, construct, reconstruct, alter or use a building or any other structure, or to use real property that does not conform to the criteria set forth in this Ordinance. The Town Manager, or his designee, shall enforce the provisions of this Ordinance. Any permit, certificate or license issued in conflict with the provisions of this Code shall be void. To provide for the enforcement of this Code, the Town may withhold all building permits and/or conditional use permits for properties on which a use of the property, building or any other structure exists which do not meet the standards of this Ordinance.
- D. A Zoning Administrator shall investigate and report on all notices of zoning violations. The Hearing Officer shall hear and determine zoning violations. Individuals determined by the Hearing Officer to be violating any provisions of this Ordinance shall be responsible for a zoning violation that is punishable by a civil sanction not to exceed the equivalent of a maximum fine of a Class 2 misdemeanor for each violation pursuant to A.R.S. § 9-240.

§ 1.7 HEARING OFFICER

- A. The Town Council shall appoint the Town Manager, or his/her designee, as the Hearing Officer to hear and determine violations of this Ordinance and other code violations. The Hearing Officer may have other responsibilities pursuant to other sections of this Code, but shall not be the Town Zoning Administrator.
- B. An administrative review of decisions of the Hearing Officer by the Town Council shall be available to any party to the hearing. Any appeal of the Town Council's decision shall be filed in Pinal County Superior Court.

§ 1.8 ZONING ENFORCEMENT OFFICER

- A. The Zoning Enforcement Officer is the Town's Zoning Administrator or his or her designee.
- B. The Zoning Enforcement Officer shall review all reported violations of this Ordinance. Upon receiving a report of a zoning violation, the Zoning Enforcement Officer shall inspect the site of the alleged violation. During an inspection, the Zoning Enforcement Officer shall take careful and comprehensive notes as to condition and existing uses of the subject property, location, property owner and address, and specific section(s) of this Ordinance corresponding to the alleged violation.
- C. Should the Zoning Enforcement Officer determine that a violation is occurring on the subject property, he or she shall serve notice to the property owner/alleged violator of the violation. The notice of violation shall cite the nature of the violation, the section of this Ordinance violated, information of possible penalties if violation has not ceased, steps necessary to bring the subject property into compliance with the zoning regulations, and a reasonable time frame in which all necessary actions should be completed to correct the noticed violation.
- D. Re-inspection shall occur after the given deadline to comply. If the violation still exists at this time, a second notice shall be given to the property owner/alleged violator. The second notice of violation shall set a final deadline for compliance not to exceed two (2) weeks. If the Zoning Enforcement Officer is convinced an attempt is being made in the

correction of the violation, an additional extension not to exceed thirty (30) days may be granted.

- E. If all reasonable attempts by Zoning Enforcement Officer fail to resolve the violation within the time specified in the second notice, or by the deadline of any extension, a citation shall be issued for each specific section of this Ordinance which has been violated. The Town shall use reasonable efforts to personally serve the citation on the alleged violator by the Zoning Enforcement Officer at least seventeen (17) days prior to the hearing. If the Zoning Enforcement Officer is unable to personally serve the citation, the citation may be served in the same manner prescribed for alternative methods of service by the Arizona Rules of Civil Procedure. Violations for which citations are issued shall be scheduled for a hearing before the Town Hearing Officer. If a citation is served upon an alleged violator other than by personal service (i.e., certified mail with return receipt), the hearing shall be set for a date no sooner than thirty (30) days from the date indicated on the certified mail receipt. A notification of the specific time and date by which the alleged violator must appear at the Hearing Office to submit a plea shall be enclosed with the citation.

§ 1.9 HEARING OFFICER PROCEDURE

A. Commencement

1. Every action or proceeding brought before the Hearing Officer for a violation of this Ordinance shall be commenced by the filing of a citation by the Zoning Enforcement Officer. No notice shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific violation if the notice contains either a written description or reference to the applicable section of this Ordinance.
2. Pursuant to § 1.7 of this Code, the alleged violator, or his or her attorney, shall appear in front of the Hearing Officer by the date and time specified in the notice accompanying the Code citation, and may admit responsibility by appearing in person or by mailing to the Hearing Office an appearance form provided by the Hearing Officer or in lieu of such form, a short statement signed by the alleged violator or his or her attorney, admitting the allegations of the notice. Once a formal admission of responsibility is received by the Hearing Officer, the Hearing Officer shall set a time and place for the determination of the penalty for the violation. At the Hearing Officer's meeting, both the alleged violator and Zoning Enforcement Officer shall be given an opportunity to state their positions on the amount of the penalty to be imposed by the Hearing Officer.

B. Counsel

1. Pursuant to § 1.7 of this Ordinance, the alleged violator or his or her attorney shall appear at the Hearing Office by the date specified in the notice accompanying the Code violation citation, and may deny responsibility by appearing in person, or by mailing to the Hearing Officer an appearance form provided by the Hearing Officer, or in lieu of such form, a denial signed by the alleged violator or his or her attorney. Once a formal denial is received by the Hearing Officer, the Hearing Officer shall schedule the matter for hearing and notify the alleged violator, or his or her attorney, of the date, time and place for the hearing.
2. Upon appearance, it shall be the responsibility of the alleged violator or his or her attorney to notify the Hearing Officer of an incorrect address or any different address than what is set forth on the citation.

- a. After the submittal of formal denial, the Hearing Officer shall promptly notify the alleged violator of his or her right to be represented by counsel. The alleged violator must notify the Hearing Officer in writing at least ten (10) days prior to the hearing date of his or her choice to be represented by counsel. The Hearing Officer may move to continue a hearing if the alleged violator does not make notification of his or her decision to secure counsel within the aforementioned time frame.
- b. If the alleged violator fails to appear by the date and time specified in the notice accompanying this Ordinance violation citation, the allegations filed against the alleged violator shall be deemed admitted, and the Hearing Officer shall enter judgment for the Town and impose a penalty, subject to this Ordinance.
- c. The Town does not need to be represented by counsel at the Hearing Officer's meeting. Should the Town elect to secure counsel, the Town must, in writing, notify the Hearing Officer and the alleged violator at least ten (10) days prior to the hearing of the Town's decision to be represented by counsel.
- d. Within ten (10) days prior to the hearing, both parties shall produce for inspection by the opposing party a list of all witnesses and any prepared exhibits to be on file at the Hearing Office. Failure to comply with this provision may result in the granting of a continuance to permit such inspection or denial of the admission of the evidence, at the Hearing Officer's discretion.

C. Hearing Officer Meeting

- 1. The order of the Hearing Officer proceeding shall be as follows:
 - a. The Hearing Officer shall call the case and briefly describe the procedures to be followed;
 - b. Town's statement;
 - c. Testimony of the Town's witness, if any;
 - d. Respondent's statement;
 - e. Testimony of the respondent's witnesses, if any;
 - f. Testimony of other attendees, at the discretion of the Hearing Officer;
 - g. Respondent's rebuttal;
 - h. Town's rebuttal;
 - i. Cross-examination of witnesses shall be strictly limited to subjects and/or evidence elicited during direct testimony;
 - j. Closing statement of the parties or their counsel; and
 - k. Ruling by the Hearing Officer. At the conclusion of the hearing, the Hearing Officer shall determine whether a violation of this Ordinance exists and, if a violation is found to exist, may impose civil penalties in accordance with this Ordinance. A ruling shall include the findings, conclusions and opinions of the Hearing Officer.
- 2. At the discretion of the Hearing Officer, a hearing may be continued for a period not exceeding sixty (60) days if it appears that the interests of justice so require. The Hearing Officer shall not continue a hearing without first giving notice to both parties. The Hearing Officer shall notify both parties in writing of the new hearing date.
- 3. The Hearing Officer may question witnesses or representatives of either party.
- 4. The Arizona Rules of Evidence shall not apply before a Hearing Officer. Any

evidence offered may be admitted, subject to a determination by the Hearing Officer that the offered evidence is relevant.

5. Audio recordings of the hearing shall be made and kept on record at the Hearing Office for a period of one (1) year. In addition, a record of the proceedings may be made by a court reporter if requested by the alleged violator at the alleged violator's expense.
6. If the alleged violator fails to appear at the time set for the hearing, the alleged violator shall be found to be in violation of this Ordinance, and the allegations filed against the violator shall be deemed admitted, and the Hearing Officer shall enter finding for the Town and may impose civil sanction and report such judgment to the Zoning Enforcement Officer.
7. If no witness for the Town, excluding the alleged violator, appears at the set time for the hearing, the Hearing Officer shall dismiss the citation unless the Hearing Officer, for good cause shown, continues the hearing to another date.
8. At any time, the Hearing Officer may set aside a finding entered upon a failure to appear, if it is deemed by the Hearing Officer that the alleged violator was not served a citation, or for any other reason where necessary to prevent an injustice.

D. Finding of Responsibility/Civil Sanctions

1. If the alleged violator, after the hearing, is found responsible for the zoning violation, the Hearing Officer shall enter a finding for the Town, and may impose a civil sanction not to exceed the equivalent of a maximum fine not to exceed seven hundred fifty dollars (\$750.00) per violation, per day.
2. The Hearing Officer shall levy an initial fine reflecting a penalty for the existing violation situation. The Hearing Officer has the option of suspending the initial fine should extenuating circumstances exist.
3. A non-compliance and daily penalty schedule shall be outlined in the judgment to accrue should the violation not be abated by the compliance date specified by the Hearing Officer.
4. The Hearing Officer may attach a penalty for "recurrence" to a parcel for maximum of two (2) years from the hearing date. Said penalty shall be levied if a violation of the same section of this Ordinance, as addressed in the Hearing Officer's proceedings, occurs within the specified time period. A recall notice shall be served and the alleged violator shall be scheduled to appear at the earliest possible hearing date.

5. The following guidelines shall be utilized when assessing penalties:

	Use Type	
	Residential/ Agricultural	Commercial/ Industrial
Minimum Penalty		
Daily	\$20.00	\$ 60.00
Initial	\$100.00	\$300.00
Non-compliance	\$200.00	\$600.00
Recurrence	\$300.00	\$500.00
Maximum Cumulative Amount of Daily Penalty	\$1,500.00	\$10,500.00
NOTE TO TABLE: A maximum penalty of \$750.00 per day per violation is allowed in accordance with a Class 2 Misdemeanor, subject to A.R.S. §§ 9-500.21.4 and 9-240		

6. Should the daily penalty balance exceed \$1,500.00 for agricultural/residential use, or \$10,500.00 for commercial/industrial use, the matter shall be forwarded to the Town Attorney for further legal action.
7. The alleged violator, if found responsible for a violation of this Ordinance and penalized with a civil sanction, shall not be relieved from the responsibility of correcting any prohibited condition. Unless an administrative review with the Town Council is scheduled within seven (7) days from the date of the hearing, the defendant shall correct the zoning violation within thirty (30) days from the date of the hearing.

§ 1.10 ADMINISTRATIVE REVIEW BEFORE COUNCIL

- A. Any party may apply for an administrative review to the Town Council for the final finding of the Hearing Officer. A written notice of the administrative review shall be filed with the Hearing Officer within seven (7) days after the Hearing Officer's finding.
- B. The notice of administrative review shall identify the finding(s) that are to be reviewed. It shall be signed by the requestor or the requestor's counsel, and shall contain the names, addresses and telephone numbers of all parties and their attorneys. When a party requests an administrative review, the Hearing Officer shall send a copy of the notice of administrative review to the other party or his or her attorney.
- C. Administrative reviews shall be limited to the record of the proceeding before the Hearing Officer, and no new evidence may be introduced. The record of the proceedings shall include all materials in the Hearing Officer's file, all evidence admitted at the hearing, and the official record as per § 1.8.C.5 of this Ordinance.
- D. Upon receiving the notice request for administrative review, the Hearing Officer shall,

within thirty (30) days, prepare and transmit the record and schedule the administrative review before the Town Council.

- E.** The parties may stipulate that the administrative review may be heard on less than a complete record or upon stipulated facts. The designation of the stipulated record shall be in writing, filed with the Hearing Officer within fifteen (15) days after the notice of administrative review.
- F.** Upon sending the record to the Town Council, the Hearing Officer shall notify both parties that they have five (5) days from the date of the letter to submit a memorandum stating the party's position to be submitted at the Town Counsel's hearing. The memorandum shall be submitted to the Town Clerk and shall not exceed five (5) pages in length.
- G.** A notice of administrative review before the Town Council shall be posted at least twenty-four (24) hours prior to the administrative review. The Hearing Officer shall mail a notice of the administrative review to both parties not less than five days prior to the meeting.
- H.** The Mayor shall preside at the administrative review and shall decide on all questions pertaining to procedure. Final decisions on the merits of the case shall be made upon motion and majority vote of the quorum.
- I.** At the Town Council's administrative review, arguments on appeal shall be limited to five (5) minutes for each party unless extended by the Mayor.
- J.** After consideration of the merits of an administrative review, the Town Council may increase, decrease or modify any sanction imposed by the Hearing Officer and may:
 - 1.** Affirm the action of the Hearing Officer;
 - 2.** Affirm in part and reverse in part and, if necessary, remand for further proceedings; or
 - 3.** Reverse the action of the Hearing Officer and, if necessary, remand for further proceedings.

§ 1.11 RECALL

- A.** Recall of a case may occur when the conditions and/or compliance time frame have not been met by the alleged violator. The Hearing Officer's case is considered to be an open case until complete compliance has been reached as outlined in the Hearing Officer's judgment.
- B.** In the event that there is a penalty for recurrence, a recall notice may be served in accordance with the procedures indicated in division (C) below, only if the term of the recurrence penalty has not expired.
- C.** Service of the recall notice shall be completed in person, by certified mail, or alternate methods of service as prescribed in the Arizona Rules of Civil Procedure, not less than fourteen (14) days prior to the hearing date.

§ 1.12 SEVERABILITY

If any part of this Ordinance is found to be invalid or unconstitutional by any court, such action shall not apply to the Ordinance as a whole, but only to that specific part, and shall not affect the validity of the remaining portions or provisions of this Ordinance.

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ARTICLE II – ADMINISTRATION

§ 2.0 TOWN COUNCIL

The Town Council shall have the following powers and duties under this Ordinance:

- A. To hear, review and consider recommendations made by the Planning and Zoning Commission on zoning applications, use permits, special use permits, variances, and appeals, in accordance with the provisions of this Ordinance.
- B. To hear, review and adopt amendments to the Official Zoning Map after recommendation by the Planning and Zoning Commission in accordance with this Ordinance.
- C. To hear, review and adopt amendments to the text of this Ordinance after the recommendation by the Planning and Zoning Commission, in accordance with the provisions of this Ordinance.

§ 2.1 PLANNING AND ZONING COMMISSION

- A. Establishment and Purpose: There is hereby created a Planning and Zoning Commission for the purpose of promoting the health, safety, order, beauty, prosperity and general welfare of the Town; and for securing efficiency, economy and concerted effort in the growth and development of the Town; and for exercising such powers as are granted by this Ordinance and Arizona Revised Statutes § 9-461 through § 9-462.08 as same may be amended from time to time.
- B. Membership: The Commission shall consist of seven (7) members, all residents of the Town, who shall be appointed by, and serve at the pleasure of, the Town Council.
- C. Term of Office: The members of the Commission shall serve for terms of three (3) years. In the event of a death, resignation, or removal from the Commission, the vacancy shall be filled by the Council for the unexpired term. Three (3) successive unexcused absences during a calendar year from any regular or special meetings may be considered inefficiency, or neglect of duty, and may be grounds for termination at the will and pleasure of the Town Council.
- D. Organization:
 - 1. Officers: The Commission shall elect a chairperson and vice chairperson from among its own members at the first meeting held in each calendar year. The chairperson shall preside at all meetings. The vice-chairperson shall perform the duties of the chairperson in the latter's absence or disability. The Clerk of the Commission shall be a member of the Town staff appointed by the Town Manager, and is not a voting member of the Commission.
 - 2. Meetings: Meetings of the Commission shall be open to the public. The minutes of the proceedings, showing the votes of each member and records of its examinations and other official actions, shall be kept and filed in the office of the Town Clerk as a public record.

3. Quorum: Four (4) members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. A member may abstain from voting only if he/she declares a conflict of interest, in which case such member shall take no part in the deliberation on the matter in question.
 4. Rules and Regulations: The Commission may make and publish bylaws to govern its proceedings, and to provide for its meetings. The by-laws are to be reviewed by the Town Attorney and approved by the Town Council.
- E. Duties: In addition to any authority granted to the Planning and Zoning Commission by Arizona law, other ordinances of the Town or by this Ordinance, the Planning and Zoning Commission shall have the following powers and duties:
1. To hold public hearings when necessary, or when required by law.
 2. To initiate, hear, review, and make recommendations to the Town Council regarding applications for amendments to the General Plan, or any other such plan, in accordance with the provisions of this Ordinance; to conduct a review and make recommendations to the Town Council, on an annual basis, on the General Plan, and for any land outside the Town's planning area which, in the opinion of the Commission, is substantially related to the planning of the Town.
 3. To make recommendations to the Town Council on all matters concerning or relating to the creation or revision of Zoning Ordinances, the boundaries thereof, the appropriate regulations to be enforced therein, and amendments of this Ordinance, and to undertake any other activities usually associated therewith and commonly known as "planning and zoning".
 4. To initiate, hear and review applications for amendments to the Official Zoning Map and/or text of this Ordinance.
 5. To hear, review and make recommendations to the Town Council regarding tentative subdivision plats, in accordance with the provisions of the Town's Subdivision Ordinance.
 6. To act upon such matters as applications for Conditional Use Permits, Temporary Use Permits, Special Use Permits, Design Review, and any other permit or review process pursuant to the provisions of this Ordinance.
 7. To confer and advise with other town, county, regional, or state planning agencies, and commissions.
- F. Compensation: The members of the Commission shall serve without compensation. The Commissioners may be reimbursed for actual expenses incurred in connection with their duties upon authorization in advance by the Commission, and approval of such expenditures by the Town Manager.

§ 2.2 **ZONING ADMINISTRATOR**

- A. Establishment and Purpose: The staff position of Zoning Administrator is hereby created for the general and specific administration of this Ordinance. The Zoning Administrator shall possess all powers of a Zoning Administrator under this Ordinance and Arizona Law, and shall perform such duties as set forth under the direction of the Town Manager. During any period that the position of Zoning Administrator is vacant, the Town Manager, or the Manager's designee, shall perform the duties of the Zoning Administrator. Further, the Zoning Administrator shall not make any changes in the uses permitted in any zoning classification, zone district, or make any changes in the terms of the Zoning Ordinance.
- B. Duties of the Zoning Administrator: The Zoning Administrator shall have the following duties:
1. To establish rules, procedures, and forms to provide for processing of applications or requests for action under the provisions of this Ordinance.
 2. Accomplish all administrative actions required by this Ordinance, including the giving of notice, scheduling of hearings, preparation of reports, receiving and processing appeals, the acceptance and accounting of fees, and the rejection or approval of site plans as provided in other provisions of this Ordinance.
 3. To provide advice and recommendations to the Town Planning and Zoning Commission and the Town Council with respect to applications and requests for approvals and permits required by this Ordinance.
 4. To direct such inspections, observations and analysis of any and all erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the Town as is necessary to fulfill the purposes and procedures set forth in this Ordinance. No building shall be occupied until such time as the Zoning Administrator has issued a letter of compliance with this Ordinance.
 5. To take such action as is necessary for the enforcement of this Ordinance with respect to any violations of this Ordinance.
 6. Interpret the Zoning Ordinance to the public, Town departments, and other branches of government, subject to the supervision of the Town Manager and any general or specific policies established by the Town Council.
 7. Undertake preliminary discussions with, and provide non-legal advice to applicants requesting zoning adjustment action.
 8. Determine the location of any district boundary shown on the Zoning Map adopted as part of this Ordinance when such location is in dispute.
 9. To allow an opportunity for staff input and proper evaluation. All requests for action by the Planning and Zoning Commission shall be filed with the Zoning Administrator. All requests shall be in a form required by the Zoning Administrator and in a manner provided in this Ordinance or in rules or regulations approved by resolution of the Town Council.

10. The Zoning Administrator shall process all applications for tentative subdivision plats or amendments to the General Plan, and shall prepare a staff report along with conditions of approval, if appropriate, and shall include recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission will then make a recommendation to the Town Council to approve, conditionally approve, or deny said applications.

§ 2.3 TOWN CENTER REVIEW COMMITTEE (RESERVED)

§ 2.4 BOARD OF ADJUSTMENT

- A. Establishment and Purpose: The Town of Superior shall have a Board of Adjustment appointed by the Town Council. In lieu of appointing a separate Board of Adjustment, the Mayor, with the consent of the Town Council, may establish the Town Council as the Board of Adjustment.
- B. Membership: The Board shall consist of seven (7) members who shall be residents of the Town of Superior. The Town Council shall serve as the Board of Adjustment. The members of the Board shall serve without compensation.
- C. Term of Office: The terms of office, including the Chairman and Vice-Chairman shall coincide with the terms of the Town Council.
- D. Organization of Board of Adjustment:
 1. Chairpersons: The Board members shall elect a chairperson and a vice-chairperson from the members of the Board at the first meeting held in each calendar year. The chairperson shall preside at all meetings. The vice-chairperson shall perform the duties of the chairperson in the latter's absence or disability. The Clerk of the Board shall be the Town Clerk and shall not be a voting member.
 2. Meetings: Meetings of the Board shall be open to the public, the minutes of the proceedings showing the votes of each member. Records of its examinations and other official actions shall be kept and filed in the office of the Town Clerk as a public record.
 3. Quorum: Four (4) members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of at least the majority of the quorum present and voting shall be required to pass a motion. A member may abstain from voting only upon a declaration that he/she has a conflict of interest, in which case such member shall be excused and shall take no part in the deliberation on the matter in question.
 4. Rules and Regulations: The Board shall adopt and publish rules and procedures necessary for the conduct of its business, subject to review by the Town Attorney and approval by the Town Council.
- E. Duties: In addition to any authority granted to the Board of Adjustment by Arizona State Law, the Board shall have the following powers and duties:
 1. To hear and decide appeals when it is alleged that an error in an order, requirement, or decision is made by the Zoning Administrator, the Planning and

Zoning Commission, or the Town Council. When properly appealed to the Board, the Board may reverse or affirm, wholly or partly, or modify the order, requirement, or decision as necessary.

2. To hear and decide requests for variances from the terms of this Ordinance only if special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the same zoning district in which such property is located.
3. A variance may only be granted, in accordance with State Law, provided evidence is presented that satisfies the specific conditions outlined by State Statutes:
 - a. There exists special circumstances or conditions regarding the land or building for which the variance or adjustment is sought, which do not apply generally to other land or buildings in the same zoning district, and these special circumstances or conditions are preexisting and are not created or self-imposed; and
 - b. The variance is necessary for the preservation of substantial property rights. Without a variance, the property cannot be used for purposes otherwise allowed in the same zoning district, and the variance or adjustment, as granted, is the minimum adjustment that will accomplish this purpose; and
 - c. The granting of the adjustment will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.
4. The Board of Adjustment may not make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance, provided the restrictions in this paragraph shall not affect the authority to grant variances pursuant to this Article.

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ARTICLE III – ZONING PROCEDURES

§ 3.0 GENERAL PROCEDURAL REQUIREMENTS

- A.** Application Process: The purpose of this Article is to provide procedures for the various requests for amendments to the text of this Ordinance, amendments to the Official Zoning Map(s), Conditional Use Permits, Variances, Appeals, and Site Plan Review. The specific procedures followed in reviewing the various applications differ. Generally, the procedures for all applications have three common elements:
1. Submittal of a completed Town application, including required fee payment along with appropriate information.
 2. Review of the submittal by appropriate Town staff, agencies, commissions, and boards.
 3. Action to approve, conditionally approve, or deny the application.
- B.** Pre-application Conference: The applicant shall meet with the Zoning Administrator to discuss the nature of the proposed application, application submittal requirements, procedure for action, and the standards for evaluation of the application, and shall include the following:
1. Site Plan: The applicant, at the time of the pre-application conference, shall provide the Zoning Administrator with a site plan depicting the boundaries of the property requested for rezoning, and a tentative development proposal for the property.
 2. Complete Submittal: The applicant shall submit all of the required materials to the Zoning Administrator. Only complete applications shall be accepted.
- C.** Planning and Zoning Commission: The Planning and Zoning Commission shall hold regularly scheduled public hearings to receive and review public input on those items required by this Ordinance. On those items where it has review authority, the Commission shall recommend that the Town Council approve, approve with conditions, or deny applications. Commission decisions and recommendations shall be based on consideration of the following evidence and analysis:
1. Conformance with this Ordinance.
 2. Conformance to the General Plan and other adopted plans.
 3. Staff recommendations.
 4. Review agency input.
 5. Public input and testimony received at the public hearing.
 6. Effects of the proposal on the neighborhood, and community-at-large.
- D.** Records: The Town shall provide for minutes to be written and retained, shall record the evidence submitted, and shall include a summary of the consideration and the action of the Planning and Zoning Commission.

- E. Town Council: The Town Council shall hold regularly scheduled public hearings to act upon all items required by this Ordinance. The Town Council shall decide whether or not to approve, approve with conditions, or deny any applications. Action on those items heard will be based on consideration of evidence presented including, but not limited to, the following:
1. Planning and Zoning Commission recommendations.
 2. Conformance with this Ordinance, the General Plan, and other adopted plans, standards, and policies.
 3. Staff recommendations.
 4. Review agency input.
 5. Public input and testimony received at the public hearing.
 6. Effects of the proposal on the neighborhood, and community-at-large.
- F. Scope of Action: The reviewing body may take any action on the application that is consistent with the notice given, including approval, conditional approval or denial of the application. The reviewing body may allow amendments to the application if the effect of the amendments is to allow a lesser change than that requested on the original application, or to reduce the impact of the development, or to reduce the amount of land involved from that indicated in the notices of the hearing. The reviewing body shall not, in any case, permit a greater amount of development, or a use falling in a different general use category, or a larger land area than indicated in the original application, or a greater variance than was indicated in the public notice.

§ 3.1 NOTIFICATION FOR PUBLIC HEARINGS

- A. Notification of public hearing(s) required for zoning text amendments, zoning amendments (rezoning), use permits, and variances shall be provided as set forth in A.R.S. § 9-462.04 and herein described. The Planning and Zoning Commission shall hold a public hearing on any zoning ordinance. Notice of the time and place of the hearing including a general explanation of the matter to be considered, and including a general description of the area affected, shall be given at least fifteen (15) days before the public hearing in the following manner:
1. The notice shall be published at least once in a newspaper of general circulation and published or circulated in the Town.
 2. In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the County or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit abutting such land. In addition to notice by publication, the Town may give notice of the hearing in such other manner as it may deem necessary or desirable.
 3. In proceedings that are not initiated by the property owner involving rezoning of land which may change the zoning classification, notice by first class mail shall be sent to each real property owner, as shown on the last assessment of the

property, of the area to be rezoned and all property owners, as shown on the last assessment of the property, within three hundred (300) feet of the property to be rezoned.

4. In proceedings involving one (1) or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5 of this Section:
 - a. A ten (10) percent or more increase or decrease in the number of square feet or units that may be developed.
 - b. A ten (10) percent or more increase or reduction in the allowable height of buildings.
 - c. An increase or reduction in the allowable number of stories of buildings.
 - d. A ten (10) percent or more increase or decrease in setback or open space requirements.
 - e. An increase or reduction in permitted uses.
5. In proceedings governed by paragraph 4 of this subsection, the Town shall provide notice to real property owners pursuant to at least one of the following notification procedures:
 - a. Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes.
 - b. If the Town issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the Town shall include notice of such changes with such utility bills or other mailings.
 - c. The Town shall publish such proposed changes prior to the first hearing on such changes in a newspaper of general circulation in the Town. The changes shall be published as a legal notice covering not less than one-eighth (1/8) of a full page.
6. If notice is provided pursuant to subparagraphs 5(b) or 5(c) of this subsection, the Town shall also send notice by first class mail to persons who register their names and addresses with the Town as being interested in receiving such notice. The Town may charge a fee not to exceed five (5) dollars per year for providing this service, and may adopt procedures to implement this provision.
7. Notwithstanding the notice requirements set forth in paragraph 5 of this section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the Town for which the notice was given.

§ 3.2 ZONE TEXT AMENDMENT AND ZONE MAP CHANGES

- A. Purpose: In accordance with the provisions of Arizona State Law, the Town Council may from time to time adopt text amendments to this Ordinance and/or amend the

Official Zoning Map. Such amendments or changes may be initiated by the Town Council, Planning and Zoning Commission, or Town staff or property owners subject to § 3.2.C and/or § 3.2.D of this Article.

- B.** Application: Before any applications are accepted by the Zoning Administrator, the petitioner shall schedule a pre-application meeting. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for either a zoning text amendment or a zoning change (rezoning) pursuant to these regulations. All applications shall be filed on a form provided by the Town and shall be accompanied by the required fee and all required materials as outlined in this Ordinance. Depending upon the specifics of the amendment or rezoning, additional materials or studies may be required by the Town in order to adequately review the application.
- C.** Initiation of Ordinance Text Amendment: Any person may request an amendment of the text of the Ordinance, after a pre-application meeting is held, by filing a completed application and submitting the required fee with the Town. The application must state the exact section of this Ordinance proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted if it will assist in understanding the benefits of the amendment.
- D.** Initiation of a Rezoning: An owner of real property within the Town, or that owner's authorized representative, may, upon proof of ownership, apply for a change in zoning district boundaries (rezoning) for that landowner's property. Such amendments also may be initiated by the Planning and Zoning Commission, Town staff, or the Town Council. In the case where the rezoning application filed by a party other than the Planning and Zoning Commission, Town staff or Town Council which includes other properties, in addition to that owned by the petitioner, the application shall include the signatures of the real property owners representing at least seventy-five (75) percent of the land in the area proposed to be changed.
- E.** Submittal Requirements: All zoning amendment applications shall include, at a minimum, the following information:

 - 1.** A map showing the particular property or properties for which the rezoning application is being requested, and the adjacent properties, buildings and structures, land uses, and public streets and ways within a radius of three hundred (300) feet of the exterior boundaries thereof.
 - 2.** A preliminary development plan that includes the following:

 - a.** A site plan drawn to scale and in such a manner as to indicate clearly and precisely what is planned for the subject property; lot dimensions and topography, showing existing as well as proposed grades and drainage systems with natural and manmade features, with indication as to which are being retained and which are to be altered or removed.
 - b.** All buildings and structures existing and proposed.
 - c.** Proposed block layout, street system, street dedications, improvements and utility plans.
 - d.** Proposed reservation for parks, parkways, playgrounds, recreation areas, pedestrian access and other open space.

- e. Off-street parking facilities including number of spaces and dimensions of parking area, loading bays and service access drives.
 - f. Proposed landscaping, including native vegetation to be salvaged, walls and fences, outdoor lighting, signs, and outdoor storage and activities.
3. The Town reserves the right to require additional information and material, and to require the submission of studies in order to adequately review the request.

F. Procedures:

1. A pre-application conference shall be scheduled by the applicant with the Zoning Administrator to discuss the proposal.
2. The petitioner shall submit a completed application, the required fees, and all material and studies related to the development plan, or the proposed text amendment.
3. Once the Zoning Administrator has determined that the application package is complete and all necessary information has been submitted, the application will be forwarded to the appropriate reviewing agencies for comments. A public hearing will then be scheduled before the Planning and Zoning Commission.
4. Notification of the public hearing shall be provided as set forth in A.R.S. § 9-462.04 and § 3.1 of this Ordinance. A public hearing shall be conducted by the Planning and Zoning Commission in accordance with the requirements of A.R.S. § 9-462.04.
5. The Planning and Zoning Commission shall render a decision in the form of a written recommendation for approval, approval with conditions/changes, or denial of the petitioned rezoning or zoning text amendment. The recommendation shall then be forwarded to the Town Council.
6. Following the Planning and Zoning Commission's public hearing, the Town Council may adopt the recommendation of the Commission without holding a second public hearing provided there is no objection, a request for a public hearing, or other protest.
7. The Town Council shall approve, approve with conditions/changes, or deny the text amendment or rezoning request. Approval of a petition to rezone land may not be enacted as an emergency measure, and the rezoning shall not become effective for at least 30 (thirty) days following Town Council approval.
8. A rezoning application accompanied by an application for a conditional use permit or subdivision plat approval, may be processed and reviewed concurrently. If the proposed rezoning is inconsistent with the General Plan, an application for an amendment to the General Plan shall be submitted by the applicant in accordance with ARS. § 9-461.06 and § 3.10 of this Ordinance.

- G. Protest:** The majority of votes, three-fourths (3/4) of the Town Council, as prescribed by ARS. § 9462.04.G, shall be required if a protest petition is filed in accordance with said statute. The protest petition shall be filed in writing with the Town Clerk at or before

noon on the date of the Town Council hearing.

- H. Subsequent Applications: In the event that an application for amendment is denied by the Town Council, or that the application is withdrawn after the Planning and Zoning Commission hearing, the Commission shall not accept another application for the same amendment within one (1) year of the original hearing unless agreed to by a super majority (6/7) vote of the Commission.

§ 3.3 **CONDITIONAL USE PERMITS**

- A. Purpose: Conditional uses are those uses which are generally compatible with the land uses permitted by right in a zone district, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zone district.
- B. Application:
1. Only those uses that are enumerated as conditional uses in a zone district, as set forth in this Ordinance, shall be authorized by the Planning and Zoning Commission. A conditional use permit shall not be required for a use allowed as a permitted use in a given zoning district. No conditional use shall be established until a site plan and/or a description of the proposal has been approved in accordance with the provisions of this Article.
 2. Before an application is accepted by the Zoning Administrator, the applicant shall schedule a pre-application meeting. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for a conditional use permit pursuant to the provisions of the Zoning Ordinance. All applications shall be filed on a form provided by the Town, and shall be accompanied by the required fee and all required materials as outlined in this Ordinance. Depending upon the specific circumstances of the use, additional materials may be required by the Zoning Administrator in order to adequately review the application.
- C. Submittal Requirements: All conditional use permit applications shall comply with the submittal requirements outlined in § 3.3 of this Ordinance.
- D. Procedures: All conditional use permits shall be processed in accordance with § 3.2 F. of this Ordinance.
- E. Approval Criteria: As may be specified within each zoning district, uses permitted subject to a conditional use permit shall be permitted only after review and approval by the Planning and Zoning Commission, and only if the applicant demonstrates that:
1. The proposed conditional use is in compliance with all regulations of the applicable zoning district, design standards, or general provision requirements of this Ordinance.
 2. The establishment, maintenance, or operation of the proposed use shall not be detrimental to the health, safety, and general welfare of occupants of surrounding land, nor be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

3. The proposed use shall not burden the existing and anticipated traffic conditions including parking facilities on adjacent streets and land.
4. The proposed use shall not impede the orderly development and improvement of surrounding property, and shall be in conformance with the Town General Plan.

F. Validity Limit:

1. Approval shall become effective immediately.
2. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist. No application for a Conditional Use Permit which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, unless agreed to by a super majority (6/7) vote of the Commission.

§ 3.4 TEMPORARY USE PERMITS

A. Purpose:

A Temporary Use Permit is a mechanism which, if approved with or without conditions of approval, would allow a temporary use, not otherwise permitted, to locate within the Town on a short-term basis. Such a permit may also allow seasonal or transient uses not otherwise permitted. Prior to conducting or establishing a temporary use, approval of a Temporary Use Permit by the Planning and Zoning Commission is required.

B. Application:

1. Before an application is accepted by the Zoning Administrator, the applicant shall schedule a pre-application meeting to discuss the procedures and requirements for a Temporary Use Permit pursuant to these regulations. All applications shall be filed on a form provided by the Town, shall be accompanied by the required fee, and shall provide all required materials as outlined in this Ordinance. Depending upon circumstances of the temporary use, additional materials may be required to adequately review the application.
2. Temporary Use Permits shall be applicable only to the specific use, specific person, entity or organization, and to the specific property for which it is issued.

C. Submittal Requirements: All Temporary Use Permit applications shall comply with the submittal requirements outlined in § 3.2 E. of this Ordinance as applicable.

D. Procedures: All Temporary Use Permits shall be reviewed and acted upon by Planning and Zoning Commission, after proper notification, as prescribed in § 3.1 of this Ordinance.

E. Approval Criteria: The Planning and Zoning Commission may approve an application for a Temporary Use Permit based on the review criteria outlined in § 13.14.B. of this Ordinance.

§ 3.5 SPECIAL EVENT PERMITS

Special Event Permits shall be issued by the Zoning Administrator in accordance with the provisions of this Ordinance. Submittal of an application for a special event shall require

completion of the Town's application form entitled "Special Event Permit" as well as any additional information required by the Zoning Administrator. Special events shall include, but not be limited to the following:

- A. Transient amusement activities (carnivals, circuses), parades.
- B. Tent revivals, seasonal festivals.
- C. Outdoor sales events (sidewalk, parking lot sales).
- D. Outdoor arts and crafts shows, exhibits (such as arts, crafts, RVs, boats, vehicles).
- E. Stands for the sale of jewelry, clothing, rugs, and similar home-type products, subject to not more than thirty (30) days per year.
- F. Stands for the sale of produce, subject to not more than thirty (30) days per year. However, this provision does not apply to the sale of produce raised on the premises.
- G. Temporary retail food sales, subject to not more than thirty (30) days per year. This shall include stands for sales at one-day special events.

§ 3.6 HOME OCCUPATIONS

- A. Purpose: A home occupation shall be considered a permitted accessory use in all residential districts, provided that it is operated and maintained to not interfere with the peace, quiet, and dignity of the neighborhood, and if it complies with the following regulations:
 - 1. All home occupations shall be clearly incidental and subordinate to the use of the property and dwelling unit for residential purposes. A valid Town sales tax and/or business license shall be maintained for the home occupation use.
 - 2. Is conducted entirely from within the principal residence or garage and shall not change the residential character thereof. Carports, accessory buildings, and yards may not be used for home occupations.
 - 3. No more than twenty-five (25) percent of the gross floor area of the dwelling shall be devoted to the home occupation. Areas devoted to the home occupation use shall maintain a residential appearance.
 - 4. There shall be no employees other than members of the immediate family residing in the dwelling unit where the home occupation is being operated.
 - 5. No business shall be conducted which requires delivery vehicles or other services not customary to a residence. Deliveries and pickups shall not block traffic and shall only occur between the hours of 8:00 a.m. and 8:00 p.m. Monday-Saturday.
 - 6. There shall be no external evidence of the activity such as outdoor storage, displays, noise, dust, odors, fumes, vibration, electrical interference or fluctuation, or other nuisances discernible beyond the property lines.
 - 7. No signs signifying the business or commercial product or service are allowed.

8. Customer/patron and shipping/receiving trip generation shall not exceed five (5) trips per day. Exceptions to this shall be allowed for music, art, craft or similar lessons, swim lessons, and home day care providers.
9. No truck or van with a payload rating of more than one (1) ton shall be stored on the site. Outside storage of heavy equipment or material shall be prohibited.
10. Any parking incidental to the home occupation shall be in driveways or other on-site parking area, and shall not create hazards or street congestion.
11. Storage of goods and materials necessary for the home occupation shall not include flammable, combustible or explosive materials.
12. A Home Occupation Permit shall be issued for a period of time not to exceed five (5) years from the date the permit was first issued.
13. All federal, state, and local regulations that pertain and are applicable to a home occupation shall be met.

B. Permitted Uses: The following uses are permitted as home occupations provided they comply with the above regulations. Any use not identified as permitted shall be brought before the Planning and Zoning Commission. The Commission will then make a determination as to what category the proposed use falls under.

1. Home offices.
2. Personal services such as beauty shop, barber shop, seamstress and catering.
3. Artists, sculptors, composers, craft work (such as making jewelry and pottery).
4. Fine arts lessons (music, art, crafts, dance), and swim lessons.
5. Telephone or message services, word processing and computer applications.
6. Day care as specified in Article V and Article VI of this Ordinance.
7. Door to door sales or party sales not on the premise.

C. Prohibited Uses: Any use not mentioned in § 3.6.B of this Article including, but not limited to the following uses, shall be prohibited for a home occupation.

1. Medical, dental, physical or psycho-therapy, and real estate offices.
2. Motor vehicle repair, painting, storage, restoration or conversion, engine repair or similar uses.
3. Temporary or permanent motor vehicle display for purposes of sale or lease.
4. Furniture refinishing.
5. Veterinarian office, grooming and boarding facilities, and animal care.

6. Machine shop.
7. Retail sales.
8. Contractors shops or storage yards.
9. Body piercing and/or painting and tattoos.

D. Violations: Any violation of the above conditions shall constitute just cause for the immediate termination of the home occupation use. Complaints by citizens or local residents indicating that the above referenced conditions of approval are not being met may be cause for termination of the home occupation use.

§ 3.7 APPEALS

- A. Board of Adjustment:** In an appeal to the Board of Adjustment regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determine whether the decision or interpretation by the Zoning Administrator, Planning and Zoning Commission, or the Town Council was in accordance with the intent and requirements of this Ordinance. Accordingly, the Board may reverse or affirm, wholly or partly, or modify the order, requirement or decision of the Zoning Administrator, the Planning and Zoning Commission, or the Town Council.
- B. Superior Court:** The Board of Adjustment is intended to handle appeals in connection with the zoning ordinance. It is not a court of last resort. Within thirty (30) days after the Board has and filed its decision, a person aggrieved by the decision may file a complaint for special action in the Superior Court for review of the Board's decision. The Court may affirm or reverse, in whole or in part, or modify the decision in accordance with the rules of special action adopted by the Arizona Supreme Court.
- C. Hearings:** Public notice of an appeal hearing shall be given in the manner consistent with § 3.1 of this Article.

§ 3.8 VARIANCES

- A. Application:** Before any applications are accepted by the Zoning Administrator, the petitioner shall schedule a pre-application meeting to discuss the procedures and requirements for a variance. A request for variance shall be made by filing an application with the Zoning Administrator and paying the required application fee. The application shall show such information as the Zoning Administrator may reasonably require for purposes of this Ordinance. The plans shall contain sufficient information for the Board of Adjustment to render a decision to approve, modify, or deny the variance application. In all cases, the application shall address the following hardship criteria:
 1. Existence of special circumstances or conditions regarding the land, building or use referred to in the application that do not apply to a majority of other properties in that district.
 2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the owner or applicant.
 3. The Variance is necessary for the preservation of substantial property rights. Without a Variance the property cannot be used for purposes otherwise allowed

in that same zone district.

4. The authorizing of the Variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.
- B.** Variance Request: A Variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with the hardship criteria established in ARS. § 9-462.06 and in § 3.4.B of this Ordinance. Pursuant to State Statutes, the Board of Adjustment may not:
1. Make any changes in the uses permitted in any zoning classification or district.
 2. Grant a Variance if the special circumstances applicable to the property are self-imposed by the property owner.
- C.** Public Hearing: A hearing shall be held on a Variance request with notification of the public hearing in compliance with ARS. § 9-462.04 and § 3.1 of this Ordinance.
- D.** Validity Limit: Rights and privileges established by the granting of a variance shall be exercised within one year following the date of approval unless a different time limit is specified by the Board of Adjustment at the time the variance is granted. Failure to exercise a variance within the time limits specified shall cause the variance to become null and void.

§ 3.9 SITE PLAN REVIEW

- A.** Purpose: The purpose of site plan regulations is to promote the safe, functional and aesthetic development of property, and to insure that new structures, utilities, streets, parking, circulation systems, lighting, signage, landscaping, yards and open spaces are developed in conformance with the standards of this Ordinance and the General Plan. The site plan review shall consider the proposed development and the relationship of the project to adjacent developments, the surrounding neighborhood, and the community.
- B.** Application:
1. Site plan review shall be required for the development and construction of all proposed developments including multiple residences, commercial, and industrial uses and those projects located within the "Town Center Zone District". If the proposed development requires a zoning change, the site plan shall be submitted with the rezoning application and considered concurrently.
 2. Before any applications are accepted by the Zoning Administrator, the applicant shall schedule a pre-application meeting to discuss the procedures and requirements for the site plan review pursuant to these regulations. Applications shall be filed on a form provided by the Town, and shall be accompanied by the required fee and all required materials as outlined in this Ordinance. Depending upon the specific circumstances of the development, additional materials may be required by the Town in order to adequately review the application.
- C.** Submittal Requirements: All site plan review applications shall comply with the submittal requirements outlined in § 3.2 E. of this Article.
- D.** Procedures: All site plan review applications shall be processed in accordance with §

3.2.F. of this Article.

E. Scope of Action:

1. Approval shall become effective immediately.
2. A site plan approval pursuant to these provisions shall run with the land, and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.
3. Any site plan requiring approval by the Planning and Zoning Commission and/or the Town Council, may be modified by the Zoning Administrator when it is determined that the modifications are minor, such as minor dimensional changes and building configurations.
4. Any modifications to a site plan, which has been approved by the Planning and Zoning Commission and/or the Town Council, that is considered a major modification by the Zoning Administrator, such as changes in uses or densities, encroachments into required yards, or other major changes, shall be returned to the Planning and Zoning Commission and/or the Town Council through the procedure described in this Section for the original Site Plan Review.
5. A “Certificate of Occupancy” or “Compliance Letter” shall not be issued if development activities do not conform to the approved site plan.

§ 3.10 DESIGN REVIEW

A. Purpose and Intent:

1. Reasonably ensure that construction of new buildings or structures and additions, renovations, and restorations to existing buildings or structures, including residential, institutional, commercial, and industrial development does not have an adverse aesthetic, health, safety or architecturally related negative impact upon existing adjoining properties, or the Town in general.
2. Minimize the effects of grading by discouraging mass grading to ensure that the natural character of terrain is retained.
3. Encourage improved drainage from lots directly to a street storm drain, or through public or privately maintained easements.
4. Encourage the use of a variety of housing styles, split level grading techniques, varied lot sizes, site design densities, varied setbacks, maintenance of views and arrangement, and spacing to reduce impacts on adjacent developed properties.
5. Encourage the use of energy conservation techniques in all new development.

- B. Projects Requiring Design Review:** Design review shall be required and approved prior to construction of any new building, or for any existing building adding more than fifty (50) percent in size to the existing building. In addition to the requirements set forth in §3.10 of this Ordinance, the requirements of § VI of the Town’s Subdivision Ordinance, specifically § VI, 6 F. (Architecture Requirements) shall apply. Whenever there is a conflict between § 3.10 of this Ordinance and Article VI (Subdivision Design Standards)

of the Subdivision Ordinance, the provisions of this Ordinance shall prevail.

- C. Town Council Review: The Town Council shall review an application for design review for projects that otherwise require approval by the Council.
- D. Planning and Zoning Commission Review: The Planning and Zoning Commission shall review an application for design review for projects that otherwise require approval by the Commission.
- E. Zoning Administrator Review: The Zoning Administrator shall review all applications for design review for projects that otherwise require approval by the Zoning Administrator.
- F. Design Standards and Guidelines:
 - 1. This Section includes guidelines for development and standards of design to be incorporated into a site plan. Other sections of this Code including requirements specific to the zone district should also be incorporated into the site plan.
 - 2. Scale and mass of developments should be compatible with the natural environment and not dominate it. Architectural features which serve to break up the massive appearance of a structure should be utilized. These features can include variation in roof forms, the use of dormers, covered walkways and patios. All features should be in proportion of the building. In some cases, it may be deemed more appropriate and desirable to use smaller buildings which are clustered rather than a single massive structure.
 - 3. External building materials should be predominantly those that fit the natural landscape such as native stone, wood, broken faced block, exposed aggregate concrete, and stucco. The use of other materials such as synthetic or reprocessed stone and wood may be considered but will require that information be provided regarding manufacturing specifications, and product samples.
 - 4. Color schemes should complement the architectural style and mass of the buildings.
 - 5. Roofs must compliment the color requirements of the proposed building(s). Screening of mechanical equipment is encouraged to maintain a desirable aesthetic quality from street level or from adjacent structures.
 - 6. The use of materials and colors to enhance the building design and break up the monotony of massive structures is encouraged.
 - 7. Parking lots should be designed to include adequate landscaping within the periphery and interior to break up the impermeable surface coverage. This may include the use of landscape islands within the parking lot, clustering parking spaces into islands rather than long rows, and utilizing a variety of landscape material and decorative fencing.
 - 8. Signs shall comply with the provisions of Article XVII (Signs) of this Code.
 - 9. Developments which incorporate energy conservation measures, water reuse, and material recycling are encouraged.
- G. Application Required:

1. Any proponent, agent or sponsor of development or redevelopment shall first file a design review application.
2. The application shall contain the following:
 - a. A site plan, drawn to scale, showing the proposed location of structures and other improvements including, where appropriate, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls. The site plan shall indicate the locations of off-street parking areas including entrances and exits and the direction of traffic flow into and out of the off-street parking area.
 - b. A landscape plan, drawn to scale, showing the locations of existing trees to be removed and trees to remain on site, the location and design of landscaped areas and the varieties and sizes of proposed plant materials. Also to be included are other landscape features such as sprinkler and irrigation systems.
 - c. Architectural drawings, drawn to scale, including all sides of building elevations and floor plans. All exterior surfacing materials and colors shall be specified.
 - d. Accurate scale drawings of all signs indicating their size height, material, color and illumination, if any.
 - e. Grading and drainage plans.
 - f. Such other data as may be required to permit the Town Manager, Planning and Zoning Commission, or Town Council to ensure that the purposes of this section are satisfied.

H. Lapse of Design Review Approval: Design review approval shall lapse and shall be void one (1) year following the date upon which the plans and drawings were approved unless, prior to the expiration date, a building permit is issued and construction is commenced and diligently pursued toward completion, or an extension of time is granted by the approving body.

§ 3.11 GENERAL PLAN AMENDMENT

A. Application:

1. In accordance with the provisions of Arizona State Law, the Town Council may update and amend the Town General Plan. Such amendments or changes may be initiated by the Town Council, Planning and Zoning Commission, Town Staff, or by a property owner or his/her designated representative. By resolution, the Town Council may establish a schedule prescribing when and how frequently minor General Plan amendments will be considered.
2. Before an application is accepted by the Zoning Administrator, the applicant shall schedule a pre-application meeting to discuss the procedures and requirements for the proposed General Plan amendment pursuant to these regulations and the Town's General Plan. All applications shall be filed on a form provided by the Town and shall be accompanied by the required fee and all required materials as

outlined in this Ordinance. Depending upon the specific circumstances of the amendment, additional materials may be required by the Zoning Administrator in order to adequately review the application.

- B. Procedures:** An application for a General Plan amendment shall be processed in accordance with the Arizona Revised Statutes. Amendments to the General Plan should occur only after careful review of the request and findings of fact in support of the revision, following public hearings before the Planning and Zoning Commission and the Town Council. The term “amendment” shall apply to both text and map revisions. A major amendment to the General Plan may only be approved by affirmative vote of at least two thirds (2/3) of the members of the Town Council. A minor amendment requires a majority vote for approval.

- C. Major Amendment Criteria:** As per § F.3., b., and c. of the Town’s General Plan Update adopted September 14, 2017.

1. Any change in land use of thirty (30) acres or more within the Town’s municipal boundaries or eighty (80) or more acres within the Town Planning Area.
2. An increase or decrease of twenty (20) acres or more of commercial or industrial land uses.
3. A decrease of ten (10) acres or more for open space uses.
4. A text amendment changing dwelling unit density or intensity.
5. A request adding significant costs on regional, municipal, or private utility systems.

- D. Minor Amendment Process:**

1. Any change in land use deemed not to require a major amendment.
2. Any change mandated by Arizona State law or Federal law.
3. A change not deemed as major using the land use and infrastructure criteria.

- E. Approval Criteria:**

In determining whether a proposed General Plan amendment shall be approved, the Commission and Council shall consider the following factors:

1. The development pattern contained in the Land Use Element of the General Plan inadequately provides appropriate optional sites for the use proposed in the amendment.
2. That the amendment constitutes an overall improvement to the General Plan, and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
3. That the amendment will not adversely impact the community as a whole, or a portion of the community by:

- a. Significantly altering acceptable existing land use patterns.
 - b. Adversely impacting existing uses due to increased traffic on existing systems.
 - c. Affecting the livability of the area, or the health and safety of the residents.
- 4. That the amendment is consistent with the overall intent of the General Plan.
 - 5. Whether events subsequent to the General Plan adoption have changed the character and/or condition of the area so as to make the application acceptable.

§ 3.12 RECREATIONAL VEHICLE PARKS

- A. Purpose: Recreational vehicle (RV) parks shall be allowed within the zoning district which specifically allows this use, and shall require a conditional use permit in accordance with § 3.1 (Notification for Public Hearings) and § 3.3 (Conditional Use Permits) of this Ordinance.
- B. Site Specifications: All RV parks shall provide adequate streets, driveways, walkways, proper layout of park, proper sanitary facilities, adequate fire protection, adequate water supply, and adequate protection of surrounding properties. RV parks shall comply with the following in addition to other requirements of this Ordinance:
 - 1. No manufactured homes or site built dwelling units shall be permitted except for that of the owner/manager and permanent maintenance personnel.
 - 2. RV parks shall not be used as permanent residences except for that of the owner/manager and permanent maintenance personnel. Maximum length of stay in any RV park shall be one hundred eighty (180) days per calendar year.
 - 3. Recreational amenities or social centers, which may be used for dancing, crafts, hobbies, games, meeting, banquets, and similar recreational uses may be of conventional construction.
 - 4. There shall be a maximum density of twenty (20) spaces per net acre. Each space shall be a minimum of one thousand two hundred fifty (1,250) square feet and at least thirty (30) feet in width. There shall be a minimum of ten (10) feet between adjacent recreational vehicles, including all attached awnings or shade canopies.
 - 5. Each RV Park must provide an adequate and easily identifiable office or registration area. The location of the office shall not interfere with the normal flow of traffic into and out of the RV Park.
 - 6. Each RV unit shall be equipped with wheels which remain on the unit. However the wheels may be blocked for stability.
 - 7. No permanent room addition shall be attached to the RV unit, nor shall the unit be attached to any permanent structure.
 - 8. A minimum of one (1) toilet, one (1) sink, and one (1) hot shower shall be provided for men and one (1) toilet, one (1) sink, and one (1) hot shower shall be

provided for women, each designed for complete privacy, for each twenty (20) spaces or fraction thereof.

9. A common use laundry facility shall be provided at a ratio of one (1) washer and one (1) dryer for each twenty (20) spaces or fraction thereof.
10. At least one (1) telephone available to Park residents shall be provided.
11. The conversion shall be limited to the number of dwelling units per acre that can be constructed at a density that is compatible with the existing residential development in the surrounding area.

§ 3.13 **MOBILEHOME PARKS**

- A. Purpose and Intent: The intent and purpose of this section is to establish standards to be used in the development of mobilehome parks within the Town. These standards are intended to assure a suitable living environment for those persons residing within mobilehome parks and for those persons living within nearby residential neighborhoods.
- B. Objectives:
 1. Private Streets: Encourage the use of private streets and private maintenance.
 2. Amenities, Common Areas: Provide for recreational amenities and common areas with controls and maintenance thereof by the mobilehome park owner, homeowners' association, or common interest group.
 3. Design: Provide a design that is related to and compatible with existing and planned land uses, and circulation patterns on adjoining properties.
- C. Conditional Use Permit: A Conditional Use Permit, as provided in § 3.3 of this Ordinance, shall be required for development of a new mobilehome park and/or for modification or expansion of an existing mobilehome park. Whenever a difference occurs between the standards of this section and an underlying zone district, the standards of this section shall apply.
- D. Site Development Standards: The following standards shall apply to development of a mobilehome park. Additional requirements may be specified in conditions of approval of a Conditional Use Permit.
 1. Minimum Area: A mobilehome park shall be no less than five (5) acres in size and the minimum area of a mobilehome space shall be no less than three thousand five hundred (3,500) square feet.
 2. Density: No more than seven (7) mobilehome spaces per gross acre shall be permitted. Rights of way of interior streets may be included in the gross acre figure.
 3. Coverage: The maximum permitted coverage of mobilehomes and all necessary buildings and/or structures shall be seventy five (75) percent of the total area of each individual lot.
 4. Yard Setbacks: Each mobilehome space shall comply with the following

minimum yard setbacks. There shall be no encroachments on any yard setback.

- a. Front yard: Ten (10) feet.
- b. Rear yard: Five (5) feet.
- c. Side yard: Five (5) feet.

5. Access Drives: Parking within a required access drive is prohibited. Width of an access drive shall be determined by the Planning and Zoning Commission, depending upon design of the Park, but in no case shall it be less than twenty-four (24) feet wide.

6. Off-Street Parking:

- a. Two (2) parking spaces, at least one of which shall be covered, shall be provided for each mobilehome space in compliance with Article XIV of this Ordinance. No parking space may be located within the front yard setback area; tandem parking may be permitted.
- b. One (1) guest parking space shall be provided for each four (4) mobilehome spaces located within the development. Guest parking may be permitted on interior street rights-of-way if the street has been designed to accommodate on-street parking.

7. Interior Streets:

- a. Private streets within a mobilehome park shall be a minimum of twenty four (24) feet wide with no on-street parking; a minimum of thirty two (32) feet wide if parking is permitted on one side of the street; and a minimum of forty (40) feet wide if parking is permitted on both sides of the street.
- b. A roadway divided into separate one-way traffic lanes, by a curbed divider, or similar device, shall be no less than fifteen (15) feet in clear width on each side of the divider. Automobile parking shall be prohibited on a divided roadway except where the unobstructed width of the roadway on the side of the divider used for parking is increased by eight (8) feet for each parking lane.

8. Open Space: A minimum of ten (10) percent of the net mobilehome park site shall be maintained for permanent open space and recreational facilities. Open space areas shall not include any portion of a mobilehome space for exterior perimeter landscaping. Usable open space may be occupied by recreational facilities such as recreation centers, swimming pools, golf courses, tennis, basketball, volleyball, badminton courts, children's play areas, trails and picnic areas.

9. Landscaping: All areas within a mobilehome park not used for recreational facilities, streets, driveways, parking structures, building and service areas shall be landscaped, shall be provided with an automated irrigation system, where appropriate, and shall be permanently maintained in a manner approved by the Town Manager or his/her designee.

10. Common Storage: A common storage area, equivalent in size to one hundred (100) square feet for each mobilehome space, shall be provided within the mobilehome park. The purpose of this storage is to store such items as recreational vehicles, boats and trailers. The storage area shall be paved and enclosed by a solid wall or durable view obscuring fence that is at least six (6) feet in height.
11. Parking of Recreational Vehicles, Trailers: Recreational vehicles, boats, and trailers shall not be permitted on individual spaces, interior streets or parking spaces designated for automobile parking.
12. Property Line Landscaping: Each mobilehome park shall have a landscaped area, served by an automatic irrigation system, of no less than fifteen (15) feet between the property line and the required perimeter wall if adjoining a public or private street. Where a property line is not adjacent to a public or private street, a perimeter wall shall be provided along said property line.
13. Perimeter Wall: Except where otherwise required, a perimeter wall shall be no less than six (6) feet in height. Where there is a difference in elevation on opposite sides of a wall, the height shall be measured from the exterior side of said wall. A perimeter wall and/or berm shall be incorporated into the project as set forth below.
 - a. The wall shall consist of concrete, stone, bricks, tile or a similar type of masonry material and shall be at least four (4) inches thick.
 - b. Berms, if incorporated into the project, shall be constructed of earthen materials, landscaped, and provided with an automatic irrigation system.
14. Height of Landscaping: Perimeter yard walls and landscaping shall be limited to a height of forty (40) inches within five (5) feet on either side of street openings for non-vehicular traffic, and within ten (10) feet on either side of street openings for vehicular traffic.
15. Improvement of Adjoining Streets: Adjoining streets shall be improved, as required by the Town Manager or his/her designee, to include all or any of the following: curb, gutters, street paving, sidewalks and street lighting. This requirement shall include preparation of street improvement plans and any other engineering deemed necessary by the Town Manager or his/her designee.
16. Underground Utility Lines: All utility lines, including water, sewer, electric, gas, telephone and television distribution systems, shall be placed underground.
17. Trash Storage Areas: Trash storage areas shall be provided as follows:
 - a. Every mobilehome space shall have individual curb site pick up; or
 - b. If common trash facilities are used, they shall be contained within an enclosed masonry structure no less than six (6) feet in height.
18. Lighting: Adequate lighting, as set forth in Article XV of this Ordinance, shall be provided throughout a mobilehome park to ensure for pedestrian and vehicular safety, and to minimize potential security problems.

19. Space Identification: Each mobilehome space shall be numbered, lettered, or identified in such a manner as to be clearly visible from the street. A map and directory of the mobilehome park shall be installed near the primary access drive, and a copy of said directory shall be provided to the Town's police and fire departments. Said map and directory shall be equipped with a lighting system adequate for night time visibility.

§ 3.14 DEVELOPMENT AGREEMENTS

- A. A Development Agreement (Agreement) may be entered into and implemented by the Town pursuant to the following procedures:
 1. An Agreement may be used when it strengthens the public planning process, encourages private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services and the allocation of costs therefore in order to achieve the maximum utilization of public and private resources in the development process, and assure, to the extent feasible, that appropriate measures to enhance and protect the environment of the Town are achieved.
 2. The objective of such an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in accord with existing policies, rules and regulations, subject to the conditions of approval, thus vesting certain development rights in the property. Development agreements will also insure that all conditions of approval, including the construction of off-site improvements made necessary by such land developments, will proceed in an orderly and economical fashion to the benefit of the Town. The purpose of this section is to establish procedures and requirements for consideration of development agreements by the Town consistent with State law.
- B. Application Requirements and Forms:
 1. An applicant may propose that the Town consider entering into an Agreement by filing an application with the Zoning Administrator and demonstrating that the project satisfies the eligibility requirements of this section. The form of said application shall be provided by the Zoning Administrator.
 2. An application may be filed only by the property owner or other person having a legal or equitable interest in the property that is the subject of the Agreement or by that person's authorized agent. The term "applicant" shall also include any successor in interest to the property owner, or successor in interest to any other person having a legal or equitable interest in the property.
 3. Eligibility Requirements:
The Town Council finds that it may be in the Town's best interest to enter into an Agreement when construction of the project will be phased over a several year period, is a large-scale development, shall occupy substantial acreage, or in some other way requires long-term certainty on the part of the developer and the Town. The Town Council reserves the sole right to determine whether an Agreement is appropriate and in the best interest of the Town for a specific development project.
 4. Proposed Development Agreement:
 - a. Each application shall be accompanied by a proposed Agreement, which shall specify the duration of the Agreement, the permitted uses of the

property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

- b. A proposed Agreement may include conditions, terms, restrictions and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not unreasonably prevent development of the land for the uses and to the density or intensity of the development set forth in the Agreement. A proposed Agreement may also provide that construction shall be commenced within a specified time, and that the project or any phases thereof be completed within a specified time.
- c. A program and standards for periodic review of the Agreement shall be included.
- d. Appropriate provisions, acceptable to the Town Attorney, providing security for the performance of the developer under the Agreement shall be included.
- e. An Agreement shall include all conditions imposed by the Town with respect to the development project. Agreements for special purposes may be adopted covering only certain aspects of the project. Any such special purpose Agreement shall be so identified.
- f. An Agreement shall contain an indemnity and insurance clause, in form and substance acceptable to the Town Attorney, requiring the developer to indemnify the Town against claims arising out of the development process, provided that such a provision does not violate applicable law or constitute a joint venture, partnership or other participation in the business affairs of the developer by the Town.
- g. An Agreements, or any part of such development agreements, may be subject to subsequent condemnation proceedings by the Town.
- h. A proposed Agreement may include such additional conditions, terms, restrictions or requirements as determined by the Town Council to be in the public interest.

4. Parties to the Development Agreement:

- a. Only a qualified applicant, or his/her agent, may file an application to enter into an Agreement with the Town. The Zoning Administrator may require an applicant, or his/her agent, to submit proof of his/her interest in the real property and of the authority of the agent to act for the applicant. Such proof may include a preliminary title report issued by a title company licensed to do business in the State of Arizona evidencing the requisite interest of the applicant in the real property. The Town Attorney may review any such documentation.
- b. In addition to the Town and the qualified applicant, any federal, state or local governmental agency or body may be included as a party to an Agreement. Any such additional party may be made a party to an Agreement providing for joint powers agreements, or provisions of other applicable federal, state or local law, in order to create a legally binding agreement among such parties.

5. Review of Application:

- a. The Zoning Administrator shall endorse the application on the date it is

received. The application shall be reviewed and may be rejected if it is incomplete or inaccurate. If the application is complete, it will be accepted for filing. The Zoning Administrator shall review the application and determine any additional requirements necessary to complete the Agreement form. After receiving the required information, a staff report and recommendation shall be prepared which will state whether or not the Agreement, as proposed or in an amended form (specifying the nature of the amendments), would be consistent with the General Plan, and with the provisions contained herein, and whether it meets the needs and requirements of the Town.

- b. The Zoning Administrator shall, as part of his review of the application, circulate copies of a proposed Agreement to those Town departments and other agencies having jurisdiction over the development project to be undertaken pursuant to the Agreement, for review and comment by such Town agencies. The proposed Agreement shall be reviewed for legal sufficiency and a proposed ordinance authorizing the Town to enter into the Agreement, for action by the Town Council upon hearing thereof as specified herein shall be prepared. The staff report and recommendation of the Zoning Administrator shall include any appropriate recommendations received by other agencies.
- c. Upon receipt of the application, the results of the review, and the recommendations of the Zoning Administrator, the Town Council shall schedule a public hearing. Notice of intention to consider the application shall be given as provided in § 3.1 of this Ordinance. In addition, if the application is being processed together with the development project, notice of such intention shall be given as required for consideration of the development project.
- d. Review Standard: The Town Council may recommend use of an Agreement as a method of implementing or providing standards and criteria for any development approval including but not limited to;
 - (1) A development approval pursuant to this Code;
 - (2) An amendment to the General Plan;
 - (3) The formation of an assessment district, benefit district, maintenance district, special benefit district, or any other mechanism for the installation of required on-site and/or off-site improvements; and/or
 - (4) Mitigation measures imposed upon a development project in which such mitigation measures have been proposed as a mechanism for eliminating or reducing impacts on the environment.
- e. Recommendation of the Zoning Administrator: Following the public hearing, the Zoning Administrator shall make his/her recommendation in writing to the Town Council. The recommendation shall include the Zoning Administrator's determination as to whether or not the proposed Agreement meets the following criteria:
 - (1) It is consistent with the objectives, policies, general land uses, and programs specified in the General Plan;
 - (2) It is compatible with the uses authorized in, and the regulations prescribed for the zone district in which the real property is or will be located;

- (3) It is in conformity with and will promote public convenience, general welfare and good land use practice;
- (4) It will not be detrimental to the health, safety and general welfare;
- (5) It will not adversely affect the orderly development of property or the preservation of property values; and
- (6) It will promote and encourage the development of the proposed project by providing a greater degree of requisite certainty.

6. Hearing by Town Council:

- a. Adoption by Ordinance: An Agreement is a legislative act, and shall be enacted by ordinance only after a public hearing before the Town Council is held pursuant to the procedures described herein. The ordinance shall refer to and incorporate by reference, the text of the Agreement.
- b. Conduct of Hearing: At the hearing, the Town Council shall consider the Zoning Administrator's recommendation, together with any additional public testimony, and may approve, disapprove, or modify any recommendation of the Zoning Administrator.
- c. Consistency with the General Plan: Before the Town Council may approve an Agreement, it must find that its provisions are consistent with the General Plan and policy plans of the Town. If the Town Council approves an Agreement in the form recommended by the Zoning Administrator, without further findings, it shall be deemed to have also adopted the findings of the Zoning Administrator.
- d. Execution of a Development Agreement: If the Town Council adopts an ordinance approving an Agreement, the parties thereto shall execute the Agreement within thirty (30) calendar days after adoption of the ordinance, provided, however, that the Agreement shall not become effective until the ordinance authorizing the Agreement also becomes effective. The time for executing the Agreement may be extended by the mutual consent of the Town Council and the applicant.
- e. Recordation: Within ten (10) calendar days after the Town enters into an Agreement, the Town Clerk shall have the Agreement recorded with the County Recorder. If the parties to the agreement or their successors in interest amend or cancel the Agreement or if the Town Council determines or modifies the Agreement for failure of the applicant to materially comply in good faith with the terms or conditions in the Agreement, the Town Clerk shall have notice of such action recorded with the County Recorder.

7. Periodic Review:

- a. The Zoning Administrator shall periodically review the Agreement at least once every twelve (12) months after the Town enters into the Agreement.
- b. Not less than forty-five (45) days nor more than sixty (60) calendar days prior to the yearly anniversary of the date an Agreement was entered into, the applicant shall submit evidence to the Zoning Administrator of the applicant's good faith compliance with the Agreement. Said notification shall be accompanied by a processing fee in such amount as

may hereinafter be established by resolution of the Town Council.

- c. Finding of Compliance: If the Zoning Administrator finds good faith compliance by the developer with the terms of an Agreement, a Certificate of Compliance shall be issued which shall be in recordable form and may be recorded by the developer in the official records. The issuance of a Certificate of Compliance by the Zoning Administrator, the expiration of the appeal period hereinafter specified without appeal, or the confirmation by the Town Council of the issuance of the Certificate on such appeal shall conclude the review for the applicable period and such determination shall be final.
- d. Finding of Noncompliance: If, based on substantial evidence, the Zoning Administrator finds the developer has not complied in good faith with the terms of an Agreement, the respects in which the developer has failed to comply shall be specified in writing. The Zoning Administrator shall also specify a reasonable time for the developer to meet the terms of compliance. If such areas of noncompliance are not corrected within the reasonable time limits as prescribed by the Zoning Administrator, the Agreement shall be subject to cancellation pursuant to provisions herein.
- e. Appeal of Determination: Any person may file an appeal of the issuance of a Certificate of Compliance to the Board of Adjustment within ten (10) days after the Certificate's issuance. The developer may also file an appeal to the Board of Adjustment of a finding of noncompliance by the Zoning Administrator within ten (10) days after giving notice of such determination. All appeals before the Board of Adjustment shall be conducted pursuant to the provisions of § 3.7 of this Ordinance, at which time evidence shall be taken and findings thereon made.
- f. Referral to the Town Council: The Zoning Administrator may refer any review to be conducted hereunder to the Town Council. Such referral shall be made together with a staff report of the Zoning Administrator's preliminary findings. Upon such referral, the Town Council shall conduct a noticed public hearing to determine the good faith compliance by the developer with the terms of the Agreement in accordance with the provisions contained herein, and shall direct the issuance of a Certificate of Compliance upon a finding of good faith compliance, or make the determination of noncompliance on the basis of substantial evidence.

8. Cancellation or Modification:

- a. Cancellation or Modification by Mutual Consent: Any Agreement may be cancelled or modified by mutual consent of the parties. Any proposal to cancel or modify an Agreement shall be heard and determined in accordance with the same procedures specified by this section for approval of an Agreement.
- b. If, at any time during the term of an Agreement, the Zoning Administrator finds, on the basis of substantial evidence, that the developer has not complied in good faith with the terms and conditions of the Agreement, and such noncompliance has not been corrected, the Town Council shall conduct a public hearing at which the developer must demonstrate good faith compliance with the terms of the Agreement. The burden of proof of substantial evidence of compliance by the developer is upon the developer. If such compliance cannot be shown, the Town Council shall either commence proceedings to cancel

the Agreement or recommend new terms and conditions intended to remedy the noncompliance.

- c. The Town Council shall conduct a noticed hearing, upon the recommendations of the Zoning Administrator, at which time the developer and any other interested persons shall be entitled to submit such evidence and testimony as may be germane to the issue of the developer's good faith compliance with the terms of the Agreement. If the Town Council finds, based on substantial evidence, noncompliance with the terms and conditions of the Agreement, it may either cancel the Agreement upon giving a sixty (60) day notice to the developer or, in its discretion, may allow the Agreement to be continued by imposition of new terms and conditions intended to remedy such noncompliance. The Town Council may impose such conditions to the action it takes as it considers necessary to protect the interest of the Town. The decision of the Town Council shall be final.
- d. In the event that an Agreement should be canceled, or otherwise terminated, unless otherwise agreed, all rights of the developer, property owner or successors in interests under the Agreement shall terminate. Any and all benefits, including money or land, received by the Town shall be retained by the Town. Notwithstanding the above provision, any termination of the Agreement shall not prevent the developer from completing and occupying a building or other improvements authorized pursuant to a valid building permit previously approved by the Town or under construction at the time of termination, but the Town may take any action permitted by law to prevent, stop, or correct any violation of law occurring during and after construction, and the developer or any tenant shall not occupy any portion of the project or any building not authorized by a previously issued building permit. As used herein, "construction" means work under a valid building permit, and "completing" means completion for beneficial occupancy for developer's use, or if a portion of the project is intended for use by a lessee or tenant, then for such portion. "Completion" means completion except for interior improvements such as partitions, duct and electrical runouts, floor coverings, wall coverings, lighting, furniture, trade fixtures, finished ceilings and other improvements typically constructed by or for tenants of similar buildings. At such time uses shall, to the extent possible, be deemed non-conforming uses, and shall be subject to the non-conforming use provisions of this Ordinance.

9. Miscellaneous Provisions:

- a. An Agreements shall be subject to the regulation and requirements of the laws of the State of Arizona; the Constitution of the United States; any codes, statutes, or executive mandates; and any court decision, state or federal, thereunder. In the event that any such law, code, statute, mandate or decision made or enacted after an Agreement has been entered into prevents or precludes compliance with one or more provisions of the Agreement, such provisions of the Agreement shall be modified or suspended in the manner and pursuant to the procedures specified in the Agreement, as may be necessary to comply with such law, code, statute, mandate, or decision.
- b. An Agreement entails and consists of a separate procedure from other land use planning procedures and shall not take the place of this Ordinance, the General Plan, a Conditional Use Permit, subdivision approval, building permit, or any other Town development procedure. If so specified in an

Agreement, it shall constitute an approval pursuant to such planning procedures as if separately enacted under other provisions of this Ordinance or other Town ordinances; to the extent practicable, public hearings on a proposed Agreement shall be held concurrent with the public hearings on all related land use approvals, and all such approvals shall be made concurrent with the approval of the Agreement.

- c.** When approved, an Agreement and any development control maps and all notations, references and regulations that are a part of the Agreement shall be part of the Agreement Ordinance. Development control maps include, but are not limited to, regulations intended to carry out any plan respecting location or type of activities; height, bulk, siding or design of structures; location or design of open areas; and landscaping and other comparable regulations.
- d.** This section and any subsequent Agreement with respect to any Agreement enacted under this section and any provision of such an Agreement that is in conflict with this Ordinance shall be void. Unless otherwise provided by the Agreement, the Town's rules, regulations and official policies governing permitted uses of land, governing density, and governing design, improvement and construction standards and specifications applicable to development of the property subject to an Agreement shall be those Town rules, regulations and official policies in force at the time of the approval of the Agreement by the Town Council provided, however, that the developer is subject to all increases in Town imposed fees, dedication requirements, and charges with respect to subsequent applications for development and construction within the property subject to the Agreement.

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ARTICLE IV – ZONE DISTRICTS AND MAPS

§ 4.0 **PURPOSE:** The Town is hereby zoned and divided into zone districts. The purpose of establishing these districts is as follows:

- A. To implement the goals, objectives, and policies of the General Plan.
- B. To conserve and promote the public health, safety and general welfare.
- C. Encourage the most appropriate use of land throughout the Town and insure logical and orderly growth and development of the physical elements of the Town.
- D. Conserve and enhance the economic, social, and aesthetic values of the Town.
- E. Protect and maintain the integrity and character of the established neighborhoods, the historic buildings, and the natural scenic resources of the Town.

§ 4.1 **ESTABLISHMENT OF ZONE DISTRICTS**

- A. In accordance with the requirements of A.R.S. § 9462.01.B, that zoning regulations be by district, the Town of Superior, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zone districts.

1. Single Family Residential Zone Districts

AR (Agricultural Residential) – Four and one-half (4½) minimum lot size.

RR (Rural Residential) - Two (2) acre minimum lot size.

ER (Estate Residential) – One (1) acre minimum lot size.

SR (Suburban Residential) – One-half (1/2) acre minimum lot size.

R1-8 (Urban Residential) – Eight thousand (8,000) sq. ft. minimum lot size.

R1-5 (Urban Residential) – Five thousand (5,000) sq. ft. minimum lot size.

2. Multiple Family Residential Zone Districts

R-2 (Multiple Residential) - Eight (8) dwelling units per acre.

R-3 (Multiple Residential) - Twenty (20) dwelling units per acre.

3. Commercial Zone Districts

C-1 (Neighborhood Commercial)

C-2 (General Commercial)

4. Town Center Zone District

TC (Town Center)

5. Industrial Zone Districts

I-1 (Garden Industrial)

I-2 (General Industrial)

6. Special Zone Districts

OSC (Open Space Conservation)

OSR (Open Space Recreational)

PD (Planned Development)

MH (Manufactured Home Overlay District)

- B. Additional zone districts may be added from time to time upon the recommendation of the Planning and Zoning Commission to the Town Council. Proposed changes to the zone district regulations or the Official Zoning Map, including the addition of new districts, may be submitted by the Town Council, Planning and Zoning Commission, Town staff, or any other interested party.
- C. Uses not listed as a permitted use or a conditional use within the applicable zone district regulations herein shall be prohibited.
- D. If a use does not conform to the uses designated as permitted uses within the zone district, the applicant may submit an application for an amendment to the Official Zoning Map and/or the text of the Zoning Ordinance, or an interpretation of district boundaries or permitted uses pursuant to Article III of this Ordinance.

§ 4.2 ZONING MAP

- A. The locations and boundaries of zone districts shall be designated on a map entitled Official Zoning Map of the Town of Superior. The Official Zoning Map, dated and signed by the Mayor and Town Clerk, is hereby declared a part of this Zoning Ordinance as though fully set forth within.
- B. The Official Zoning Map shall be located in the office of the Zoning Administrator and a copy shall be kept on file with the Town Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map when officially adopted by the Town Council.

§ 4.3 DISTRICT BOUNDARIES

- A. The zone district boundary lines are intended to follow street, alley, lot, or property lines as they exist at the effective date of this Ordinance, except where such district boundary lines are fixed by dimensions shown on the Zoning Map, in which case such dimensions shall govern. In cases where these lines are not used, the zoning district lines shall be

determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zone district boundary line at the time of the enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

- B.** Any dispute as to the boundary or location of property within a zone district shall be resolved in accordance with Article III of this Ordinance.
- C.** Conditions imposed by special ordinance in conjunction with amendments to the Zoning Map(s) are thereon referenced to separate files maintained in the office of the Zoning Administrator and are hereby made a part of the Zoning Map(s).

§ 4.4 ESTABLISHING ZONING IN ANNEXED AREAS

Unincorporated areas proposed for annexation to the Town shall pre-zone said area, as set forth in § 3.2 (Zoning Text Amendment and Zoning Changes) of this Ordinance, as part of the annexation process. Upon annexation of said areas, the pre-zoned designation shall become effective and shall be thus zoned.

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ARTICLE V – SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS

§ 5.0 PURPOSE

The Single Family Residential Zone Districts are designed to provide for a wide range of single residential land uses. The purpose of these districts is to protect the stability of existing neighborhoods and to encourage desirable new residential developments, encompassing the many lifestyles and areas of Town ranging from large rural estate development to urban/cluster development. It is also the intent of these zone districts to accommodate the needs of single residence neighborhoods by providing for associated, limited, non-residential uses, including religious, educational and recreational facilities. The Single Residential Zone Districts are further delineated in the following categories:

A. Single Family Residential Zone Districts:

1. Agricultural Residential (AR) Zone District

The minimum lot size in the AR Zone District is four and one-half (4 ½) acres. The purpose of this zone district is to conserve and protect open space land that is environmentally sensitive. This includes flood plains, steep slopes, areas of significant vegetation, and the ability to keep large domestic animals on site.

2. Rural Residential (RR) Zone District

The minimum lot size in the RR Zone District is two (2) acres. The purpose of this zone district is to conserve and protect open space land uses, foster orderly growth in steep topography, and prevent urbanization of significant topographical areas with native desert vegetation. It is further the intent of this zone district to encourage large lot residential subdivisions, and to allow for limited residential development in environmentally sensitive areas including flood plains, steep slopes which may contain unstable rock and soils, areas of significant vegetation, and other sensitive conditions.

3. Estate Residential (ER) Zone District

The minimum lot size in the ER Zone District is one (1) acre. The purpose of this zone district is to provide for and conserve existing rural residential uses in their present or desired character, foster orderly growth in rural areas, promote open space land uses, and prevent urbanization in areas having unique or significant native desert vegetation whereby larger lot residential uses would be most compatible. The intent of this district is to encourage areas where semi- estate residential uses can be maintained, and to provide a transition between the estate and suburban residential land uses.

4. Suburban Residential (SR) Zone District:

The minimum lot size in the SR Zone District is one-half (1/2) acre. The purpose of this zone district is to provide for and preserve suburban-type, residential uses and characteristics. The intent of this zone district is to further encourage a transition to urban-type single family residential uses from the estate residential areas.

5. Urban Residential (R1-8) Zone District:

The minimum lot size in the R1-8 Zone District is eight thousand (8,000) square feet.

The purpose of this zone district is to provide for medium density urban- type detached single residential development in areas where adequate public facilities and services are available. The intent of this zone district is to encourage a traditional neighborhood environment.

6. Urban Residential (R1-5) Zone District

The minimum lot size in the R1-5 Zone District is five thousand (5,000) square feet. The purpose of this zone district is to promote and preserve residential development of an urban density. The intent of the district is to allow the continuation of previous standards within the older sections of the community while encouraging an environment of detached, single residence housing, with higher residential densities.

§ 5.1 PERMITTED USES

A. Permitted uses in the AR, RR, ER, SR, R1-8, and R1-5 Single Family Residential Zone Districts shall be only those uses listed as permitted by-right within the respective zone district. Permitted uses are subject to all other applicable standards of this Ordinance.

1. One (1) single detached dwelling unit per lot of record.
2. Parks and playgrounds, public and private forests, and open space preserves.
3. Utility services, but not including business offices, repair or storage facilities, wastewater treatment plants, and generating plants.
4. Satellite dish antennas for private residential use provided that they are located within the required rear yard, are ground mounted and screened from public view.
5. Wireless communication towers and antennas provided that they are located on property owned, leased, or otherwise controlled by the Town.
6. Publicly owned or operated fire stations, police stations, and post offices.
7. Home-based day care with no more than six (6) children.
8. Assisted living facilities and group care homes for the handicapped and the elderly provided that:
 - a. No such home is located on a lot that is within one thousand two hundred (1,200) feet of another group home for the handicapped and elderly care;
 - b. No such home contains more than six (6) residents;
 - c. Such home is licensed by the State Department of Health Services;
 - d. Such home is registered with, and administratively approved by the Town as to compliance with the standards of this Ordinance.
9. Solar siting and installation as set forth in Article XIII, §13.14 (Solar Siting).
10. Home Occupations as set forth in § 3.6 of this Ordinance.

11. Temporary uses such as revivals, carnivals, circuses, auctions, holiday or seasonal sales boutiques or tree lots when such uses are located on property used for church or school purposes only, subject to the provisions of the Town Code.
12. Second dwelling units in accordance with § 13.15 of this Ordinance.

B. Additional uses in the AR, RR and ER Zone Districts.

1. Corrals, barns, stables, and other similar structures, for the keeping of horses and other livestock as accessory to a primary residential use provided that such corrals and structures are set back from all lot lines a distance of not less than forty (40) feet and contain at least ten thousand (10,000) square feet of area for each horse or head of livestock kept therein.
2. Commercial riding stables and boarding stables provided the site contains at least ten (10) acres and that such stables are located at least one hundred (100) feet from any property line. In the review for commercial riding stables or boarding stables, the Town may consider lighting, landscaping, hours of operation, signage, parking, plan of operation, and neighborhood impact.
3. Plant nurseries and greenhouses.

§ 5.2 USES SUBJECT TO A CONDITIONAL USE PERMIT

A. Uses conditionally permitted in the AR, RR, ER, SR, R1-8 and R1-5 Single Family Residential Zone Districts, only after review and approval of a Conditional Use Permit in accordance with § 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Planning and Zoning Commission.

1. Public or private schools provided a private school has a curricula substantially the same as customarily offered in public schools.
2. Wireless communication towers and antennas not on property owned, leased, or otherwise controlled by the Town of Superior as approved in accordance with the requirements of Article XVI of this Ordinance.
3. Bed and breakfast operations provided that the following standards shall apply:
 - a. No more than two (2) guest bedrooms for the business, and no more than two (2) persons per room.
 - b. One (1) off-street, non-tandem parking space per bedroom.
4. Model homes or temporary sales office pertaining to the sale of homes being constructed in the immediate subdivision. In the review for a model home or sales office, the Town may consider lighting, landscaping, hours of operation, signage, parking, duration, and neighborhood impact. Approval may be granted for a two (2) year period, or until all homes in the subdivision are under construction, whichever occurs first.
5. Day care centers for the care of more than six (6) children.
6. Assisted living facilities and group care homes for the elderly and handicapped for more

than six (6) residents, provided that:

- a. No such home is located on a lot that is within one thousand two hundred (1,200) feet of another group home for the handicapped and elderly care.
 - b. Such home is licensed by the State of Arizona, Department of Health Services.
 - c. Such home is registered with and administratively approved by the Town as to compliance with the standards of this Ordinance.
- 9. Churches, including parish houses, parsonages, rectories, convents, and dormitories accessory thereto.
 - 10. Golf courses including club houses located thereon and unlighted driving ranges but not including miniature golf courses.
 - 11. Athletic facilities and day care centers in conjunction with a place of worship provided such activities are on the same lot or contiguous lot.
 - 12. Publically owned libraries and activity buildings.

§ 5.3 COMPLIANCE WITH OTHER PROVISIONS

- A. General Provisions: The general provisions in Article XIII shall apply.
- B. Parking Regulations: The parking regulations as provided in Article XIV shall apply.
- C. Outdoor Lighting: All outdoor lighting regulations as provided in Article XV shall apply.

§ 5.4

DENSITY, AREA, BUILDING AND YARD REGULATIONS

The chart which follows (Table No. 1) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, and distance between buildings.

TABLE NO.1
Single Residence Districts

Zone District	Area (Sq. Ft.)	Width (Feet)	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Depth (Feet)	Distance Between Buildings
				Front	Side	Street Side	Rear		
AR	196,020	300	35	60	60	60	100	250	10 ^a
RR	87,120	150	35	60	40	60	100	200	10 ^a
ER	43,560	120	35	40	20	40	40	120	10 ^a
SR	20,000	80	35	30	20	30	35	100	10 ^a
RI-8	8,000	80	30	20	5	15	25	100	10 ^a
RI-5	5,000	50	30	20	5	10	15	80	10 ^a

(a) Distance between buildings or as per the International Building Code.

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ARTICLE VI – MULTIPLE RESIDENTIAL ZONE DISTRICTS

§ 6.0 PURPOSE

The Multiple Residential Zone Districts are designed to provide for a range of multiple residential land uses. The purpose of these districts is to provide for multiple residential developments in locations which are suitable and appropriate, taking into consideration existing conditions, future land use needs, and the availability of public services. It is intended that these Zone Districts accommodate a variety of dwelling types, including apartments, townhouses or patio homes, and condominiums. The Multiple Residential Zone Districts are further delineated in the following categories:

Multiple Residential Zone Districts:

1. Multiple Residential (R-2) Zone District:

The R-2 Zone District permits a maximum of eight (8) dwelling units per acre. The purpose of this zone district is to provide a transition from the single residential zone districts to more intensive land uses, and to allow low-density multiple residence dwellings. Principal uses permitted in this Zone District include attached or detached small condominium units, town-homes, apartments, complexes, or patio homes.

2. Multiple Residential (R-3) Zone District:

The R-3 Zone District permits a maximum of twenty (20) dwelling units per acre. The purpose of this Zone District is to provide for high-density multiple attached residential development in areas where adequate public facilities and services are available. The intent of this zone district is to encourage cluster style developments and the traditional apartment developments incorporating unique design and exceptional amenities.

§ 6.1 PERMITTED USES

A. Permitted uses in the R-2 and R-3 Multiple Residential Zone Districts shall be only those uses listed as permitted by-right within the respective zone district. Permitted uses are subject to all other applicable standards of this Ordinance.

1. Multiple family dwelling units per lot of record.
2. Churches, including but not limited to parish houses, parsonages, rectories, convents, and dormitories accessory thereto.
3. Publicly owned libraries, parks, playgrounds, and community activity buildings.
4. Golf courses, in conjunction with a housing development, including club houses located thereon along with unlighted driving ranges, but not including miniature golf courses.
5. Wireless communication towers and antennas provided that they are located on property owned, leased, or otherwise controlled by the Town.
6. Home-based day care with no more than six (6) children.
7. Home occupations as set forth in § 3.6 of this Ordinance.
8. Assisted living facilities and group care homes for the elderly and handicapped, provided

that they are stand-alone facilities and that:

- a. No such home is located on a lot within one thousand-two hundred (1,200) feet of another group home for the handicapped and elderly care.
 - b. Such home is licensed by the Arizona Department of Health Services;
 - c. Such home is registered with, and administratively approved by the Town, as to compliance with the standards of this Ordinance.
 - d. No such home contains more than six (6) residents.
- 9. Solar siting and installation as set forth in Article XIII, § 13.14 (Solar Siting).
 - 10. Temporary uses such as revivals, carnivals, circuses, auctions, holiday or seasonal sales boutiques or tree lots subject to the provisions of the Town Code.

§ 6.2 USES SUBJECT TO A CONDITIONAL USE PERMIT

- A. Uses permitted in the R-2 and R-3 Multiple Residence Zone Districts only after review and approval of a Conditional Use Permit, in accordance with § 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Planning and Zoning Commission.
 - 1. Public and private schools provided a private school has a curriculum substantially the same as customarily offered in public schools.
 - 2. Wireless communication towers and antennas not on property owned, leased, or otherwise controlled by the Town of Superior as approved in accordance with the requirements of Article XVI of this Ordinance.
 - 3. Mobilehome parks in accordance with the provisions of Article XI (Mobilehome Parks) of this Ordinance.
 - 4. Model units or temporary sales office pertaining to sale of units in the immediate subdivision. In the review for a model unit or sales office, the Town may consider lighting, landscaping, hours of operation, signage, parking, duration, and neighborhood impact. Approval may be granted for a two (2) year period, or until all units in the subdivision are under construction, whichever occurs first.
 - 5. Athletic facilities and day care centers in conjunction with a place of worship, parks, or activity buildings provided such activities are on the same lot or contiguous lot.
 - 6. Bed and breakfast operations.
- B. Recreational Vehicle (RV) Parks in the R-3 Zone District only after review and approval of a Conditional Use Permit, in accordance with § 3.3 of this Ordinance.

§ 6.3 **DESIGN STANDARDS REQUIREMENTS**

In addition to the requirements of § 3.10 (Design Review) the following shall apply.

- A. Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, shall be designed to appear as an integral part of the building.
- B. The building materials of a project shall be durable, require low maintenance, and be of a substantial quality.
- C. Architectural elements should include a variety of massing, building heights, and stepping roof lines. Straight roof lines should be varied by using offsets, differing heights, stepping, or different orientations to produce more variety within a development.
- D. All R-3 multiple residence developments shall provide amenities for use by the residents. Examples of such amenities are playground/tot lot, swimming pool, club house, health & fitness center, tennis courts, basketball courts, etc. The area utilized by these amenities may be credited as open space.

§ 6.4 **SCREENING REQUIREMENTS**

- A. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm, or combination thereof, to a height not to exceed three (3) feet in order to adequately screen the undercarriages of the parked vehicles.
- B. A dense hedge row or other vegetative screening is encouraged rather than the use of a perimeter wall when adjacent to a single residence zone district. If a perimeter wall is constructed, it shall be a maximum of six (6) feet in height and decoratively treated on all sides to match the architectural style and design of the development.
- C. Trash and refuse collection locations shall be screened with a six (6) foot decorative masonry wall; except that a maximum of fifty (50) percent of the required screening may be composed of live vegetation provided that the vegetation is view-obscuring and a minimum of six (6) feet in height. Trash and refuse areas shall be located such that they are not the visual focal point of a driveway or parking area, or cannot be viewed from a public street.

§ 6.5 **COMPLIANCE WITH OTHER PROVISIONS**

- A. General Provisions: The applicable provisions in Article XIII (General Provisions) shall apply.
- B. Parking Regulations: The parking regulations as set forth in Article XIV (Parking Provisions) shall apply.
- C. Outdoor Lighting: Outdoor lighting regulations as set forth in Article XV (Outdoor Lighting Provisions) shall apply.

§ 6.6

DENSITY, AREA, BUILDING AND YARD REGULATIONS

The following chart (Table No. 2) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentages, and distance between buildings.

TABLE NO. 2
Multiple Residential Zone Districts

Zone District	Lot Area (Sq. Ft.)	Du/ac	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Coverage	Distance Between Buildings
				Front	Side	Street Side	Rear		
R-2	18,000	8	35	20	5	10	25	40%	15
R-3	18,000	20	35	20	5	10	25	50%	15

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ARTICLE VII – COMMERCIAL ZONE DISTRICTS

§ 7.0 PURPOSE

The Commercial Zone Districts are designed to provide for a range of commercial land uses. The purpose of these zone districts is to provide for commercial developments in locations that are suitable and appropriate, taking into consideration existing conditions, future land use needs, and the availability of public services. It is intended that these zone districts accommodate a variety of uses including neighborhood retail and services, specialty retail, and general retail and services. The Commercial Zone Districts are further delineated in the following categories:

A. Neighborhood Commercial (C-1) Zone District:

The purpose of this Zone District is to provide a location for moderate scale, well designed professional offices and limited indoor commercial and retail uses to serve a surrounding residential neighborhood. The intent of this Zone District is to insure compatibility with adjoining residential neighborhoods, while satisfying their daily commercial and service business needs.

B. General Commercial (C-2) Zone District:

The purpose of this Zone District is to provide for general business and commercial uses. The intent of this Zone District is to allow commercial uses to satisfy the needs of the community while providing for a broad range of commercial activities.

§ 7.1 PERMITTED USES C-1 ZONE DISTRICT

A. Permitted uses in the Neighborhood Commercial (C-1) Zone District are as follows:

1. Personal and household services, such as clothing alteration, seamstress shops, shoe repair shops, beauty and barber shops, jewelry and watch repair, small appliance repairs, newspaper stands, florists, and catering services.
2. Nurseries, flower and plant sales, provided all incidental equipment and supplies including fertilizer and cans, are kept within a completely enclosed building or within an area enclosed and screened on all sides by a solid fence or wall.
3. Specialty retail stores including, but not limited to bicycles and sporting goods stores, delicatessens, coffee houses, bakeries, ice cream shops, candy shops, gifts, curios, stationeries, and cards.
4. Studios for teaching fine art, including shops and galleries for retail sales.
5. Day care center, including the required outdoor play area.
6. Professional and administrative offices.
7. Medical, dental, clinical offices, physical therapy facilities, and gymnasiums.

8. Solar siting and installation as set forth in Article XIII, §13.14 (Solar Siting).
 9. Banks, credit unions, financial companies, and investment companies.
 10. General office and retail use, such as dry goods and notions stores.
 11. Restaurants, bars or cocktail lounges, wine tasting rooms, coffee houses, and tea shops excluding drive-in and drive-through facilities.
 12. Owner occupied residential quarters on the second floor or to the rear of the building (not facing the street) provided the square footage of the residential quarters does not exceed the square footage of the commercial business portion of the building. A security guard or night-watchman quarters may be permitted provided it is an ancillary use and is contained within the commercial structure.
 13. Grocery and liquor stores, excluding big box stores, and ice and water sales.
 14. Antique stores and art galleries.
 15. Laundromats and dry cleaning facilities.
- B. No building permit shall be issued for a use not specifically mentioned in subsection 7.1.A of this Article unless a determination of similar use is made by the Planning and Zoning Commission.

§ 7.2 USES SUBJECT TO A CONDITIONAL USE PERMIT C-1 ZONE DISTRICT

Uses in the Neighborhood Commercial (C-1) Zone District that are subject to approval of an approved conditional use permit, in accordance with § 3.3 of this Ordinance, are as follows:

- A. Bed and breakfast facilities.
- B. Hotels and motels.
- C. Apartment complexes, condominiums, or other multiple family residential projects.
- D. Wireless communication towers and antennas.
- E. Mobilehome Parks in accordance with the requirements of Article XI of this Ordinance.

§ 7.3 USES PERMITTED IN THE C-2 ZONE DISTRICT

- A. Permitted uses in the General Commercial (C-2) Zone District shall be as follows:
 1. Those uses that are permitted, and conditionally permitted, with the exception of subsection 7.2.5 (Wireless Communication Towers and Antennas) in the C-1 Zone District are permitted in the C-2 Zone District.
 2. Outdoor sales and displays are prohibited, except where one (1) or more of the following conditions are present:
 - a. Products and services displayed outdoors are customary, accessory, and

incidental to those sold and displayed in a primary business being conducted in a permanent building on the property.

- b. Outdoor sales and displays do not interfere with pedestrian access ways, fire lanes, required parking spaces, driveways, landscape areas, or traffic visibility at driveway entries and street intersections.
- 3. Drive-in/drive-thru window facilities.
- 4. General retail such as appliance stores, home or hardware stores, and apparel stores.
- 5. Restaurants, including drive-in and drive-through facilities.
- 6. Small animal hospitals or clinics, confined to completely enclosed, sound-attenuated facilities, subject to the following:
 - a. Animals shall not be boarded or lodged except for short periods of observation incidental to care or treatment.
 - b. No kennel or exercise runs will be permitted.
- 7. Household rental services, sickroom or office equipment.
- 8. Pool and dance halls, bowling alleys, and night clubs.
- 9. Grocery stores, including big box retail stores, and other similar uses.
- 10. Performing arts and movie theaters within an enclosed structure.
- 11. Car washes and auto service stations.
- 12. Outdoor display areas for the sale of new or used automobiles, trucks, boats, trailers, recreational vehicles and manufactured homes, provided all sales and repair activities are conducted within a building.
- 13. General auto repair, excluding auto painting and body repair provided all repairs are conducted within a building. Outside vehicle storage areas are to be used only for vehicles under repair which shall be screened from any street or surrounding property.
- 14. Mini-storage facility, including an on-site night watchman's quarters, provided the storage facility is used solely for dead storage purposes, excluding hazardous materials such as flammable liquids, explosives, toxic substances and the like.
- 15. Solar siting and installation as set forth in Article XIII, § 13.14 (Solar siting).
- B. No building permit shall be issued for a use not specifically mentioned in subsection 7.1.A. unless a determination of similar use is made by the Planning and Zoning Commission.

§ 7.4 USES SUBJECT TO CONDITIONAL USE PERMIT IN THE C-2 ZONE

DISTRICT

Uses permitted in the C-2 Zone District, after review and approval of a Conditional Use Permit in accordance with § 3.3 of this Ordinance are as follows:

1. Amusement facilities, arcades, miniature golf, batting cages, go-cart tracks and similar uses.
2. Commercial kennels including outside runs.
3. Social service and community service agency facilities such as plasma centers, charity dining services, homeless shelters, day labor hiring centers, substance abuse detoxification and treatment centers, rescue missions, and other similar social service uses.
4. Wireless communication towers and antennas in accordance with the requirements of Article XVI of this Ordinance.
5. Public schools, private schools, or parochial schools.
6. Churches or places of worship.

§ 7.5**PROHIBITED USES IN THE C-2 ZONE DISTRICT**

The following uses are prohibited in the General Commercial (C-2) Zone District: Manufacturing, compounding, processing or treatment of products other than that which is clearly incidental to a retail store or business, and where all such completed products are sold at retail on the premises.

§ 7.6**DESIGN STANDARDS****A. General Architectural Requirements:**

1. Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted shall be designed to appear as an integral part of the building.
2. The building materials of a project shall be durable, require low maintenance, and be of a substantial quality.
3. All building elevations facing a public street or are adjacent to residential uses or zoning districts shall be architecturally compatible with the surrounding area.
4. All buildings shall be designed to incorporate architecture that provides a variety of massing, building heights, and stepping roof lines.
5. Pad buildings in group commercial development including service stations, convenience stores, chain restaurants, auto maintenance facilities and similar uses should be designed in a compatible architectural style, and incorporate the same materials, colors and landscaping as the host development.

B. General Site Planning Requirements:

1. Service and loading bays (car wash, automotive service, tire, etc.) should be

oriented away from adjacent residential zoning district.

2. Drive-through windows should not face a public street.
3. Equipment such as, but not limited to, vending machines should be placed in an area designed for their use, as an integral part of the structure.
4. Open space equivalent to ten (10) percent of the building site shall be required for group commercial development. Open space does not include parking areas.
5. Parking areas other than in front of the principal building is encouraged.
6. Link structures to the public sidewalks when desirable with textured pavement, landscaping, and trellises.

§ 7.7 LANDSCAPE AND SCREENING REQUIREMENTS

A. Landscaping Requirements:

1. Landscaping may include trees, shrubs, ground covers, vines, fountains, benches or other organic materials used for creating an attractive appearance. The use of exotic species or allergenic species shall be prohibited. Landscaping shall be provided within the public right-of way, required open space, landscape areas, parking areas, and retention/detention basins as approved by the Zoning Administrator.
2. Plant Quantities:
 - a. U.S. 60 Corridor: A minimum of one (1) specimen tree and three (3) shrubs and/or organic groundcover shall be required for every five-hundred (500) square feet, or fraction thereof, of total landscape area exclusive of that portion of the public right-of-way occupied by a driveway area. Additional streetscape such as, but not limited to, benches, pedestrian and bike trail, and historic mining artifacts or mechanisms (used as sculpture pieces), may be required in accordance with the Town's approved U.S. 60 Corridor Landscape Plan.
 - b. Arterial and Major Collectors : A minimum of one (1) tree and three (3) shrubs and/or organic groundcover shall be required for every five-hundred (500) square feet, or fraction thereof, of total landscape area exclusive of that portion of the public right-of-way occupied by a driveway.
 - c. Local and Neighborhood Street : A minimum of one (1) tree shall be planted, every twenty (20) feet, or fraction thereof, depending on the width of the canopy at maturity of the particular tree chosen.
5. The property owner or a "Property Owner's Association" shall maintain all landscape materials and landscaped areas, including that within the public rights- of-way adjacent to the site, in accordance with the approved landscape plan.

B. Screening Requirements:

1. A dense hedge row or other vegetative screening is encouraged rather than the use

of a wall or fence when a commercial development is adjacent to a residential district. Exceptions to this may be if the commercial use is required to have a wall/fence by Federal, State, or local standards, or if the residential area would be adjacent to an outdoor storage area.

2. A dense hedge row or other vegetative screening is encouraged rather than the use of a perimeter wall when adjacent to a residential zone district. If a perimeter wall is constructed, it shall be a maximum of six (6) feet in height and decoratively treated on all sides to match the commercial product architectural style and design.
3. Trash and refuse collection locations shall be screened with a six (6) foot decorative masonry wall; except that a maximum of fifty (50) percent of the required screening may be composed of live vegetation provided that the vegetation is view obscuring and a minimum of six (6) feet in height. Trash and refuse areas shall be located such that they are not the visual focal point of a driveway or parking area. Projects which provide on-site daily management and maintenance personnel (i.e. service stations and convenience markets), and which have refuse enclosures at highly visible locations, shall provide latching gates for screening the opening to the enclosure.
4. Outside storage areas shall be screened from the public street view and adjacent residences, office, and other commercial uses to a height of at least six (6) feet. Materials shall not be stacked, piled, or stored in such a manner as to project above the screen wall.
5. Parking areas adjacent to required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three (3) feet in order to adequately screen the undercarriages of the parked vehicles.

§ 7.8 **COMPLIANCE WITH OTHER PROVISIONS**

A. General Provisions:

All applicable provisions as set forth in Article XIII (General Provisions) shall apply.

B. Parking regulations:

Parking regulations as set forth in Article XIV (Parking Provisions) shall apply.

C. Outdoor Lighting:

Outdoor lighting regulations as set forth in Article XV (Outdoor Lighting Provisions) shall apply.

D. Signs:

Sign regulations as set forth in Article XVII (Sign Provisions) shall apply.

§ 7.9 **DENSITY, AREA, BUILDING AND YARD REGULATIONS**

The following chart (Table No. 3) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentages, and distance between buildings.

TABLE NO.3
Commercial Districts

Zone District	Lot Area (Sq. Ft.)	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Coverage	Distance Between Buildings
			Front	Side	Street Side	Rear		
C-1	6,000	30	20	10	20	25	50%	15
C-2	6,000	30	20	10	20	25	60%	15

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ARTICLE VIII – TOWN CENTER (TC) ZONE DISTRICT

§ 8.0 PURPOSE

The intent of the Town Center (TC) Zone District is to maintain and enhance the character of the historic buildings within the downtown area while promoting a pedestrian-oriented specialty retail district by encouraging the improvement of the pedestrian environment, delineating the appropriate land uses within the district, and ensuring new buildings are designed to be compatible with the historic fabric of the area and in a human scale. It is intended that this District accommodate a narrower range of uses including specialty retail, and residential uses.

§ 8.1 PERMITTED USES

- A. The following uses are permitted in the TC Zone District provided no new structures or no exterior modifications of existing buildings are proposed. Permitted projects include interior modification to the building or change of use for an existing building. No new construction or exterior changes to existing buildings shall be permitted within the downtown commercial area of the TC Zone District until the Planning and Zoning Commission has approved the project consistent with Article III, § 3.10 (Design Review) and § 8.3 (Design Standards and Requirements in the TC Zone District) of this Ordinance. This provision is to remain in effect until the Town approves design standards for the downtown commercial area of the TC Zone District. Once this has been accomplished, a revision to Article VIII (TC Zone District) will be reviewed by the Town Council upon recommendation of the Planning and Zoning Commission.
1. Personal and household services, such as clothing alteration, seamstress shops, shoe repair shops, beauty and barber shops, jewelry and watch repair, small appliance repairs, spas, chiropractors, massage therapy, holistic healing services, gymnasiums, and catering services.
 2. Specialty retail uses including, but not limited to, gift shops, stationery and card stores, bookstores, florists, bakeries, delicatessens, coffee houses, ice cream shops, micro-breweries, wine tasting shops, and candy shops.
 3. Apparel and accessories.
 4. Art galleries, art supply shops, and art studios for the production and teaching of fine art.
 5. Antiques, crafts, and collectibles sales.
 6. Restaurants (excluding drive-in/drive-thru facilities), cafeterias, taverns, outdoor dining when ancillary to restaurant use, bars, or cocktail lounges.
 7. Hotels and bed and breakfast facilities.
 8. Residential units when located above the first floor or behind a commercial business on the first floor for any property adjacent to Main Street. Otherwise a single residential dwelling, excluding manufactured homes, may be permitted.

9. Professional and administrative offices.
 10. Medical, dental, clinical facilities and gymnasiums.
 11. Solar siting and installation as set forth in Article XIII, § 13.14 (Solar siting).
 12. Fine arts academies/studios, including dance and music.
 13. Performing arts and movie theaters within an enclosed structure.
- B.** No building permit shall be issued for a use not specifically mentioned in subsection 8.1.A. unless a determination of similar use is made by the Planning and Zoning Commission.

§ 8.2 PROHIBITED USES

The following uses are not permitted in the TC Zone District:

- A.** Automotive service uses, including but not limited to, gasoline stations, repair or service facilities, and car washes.
- B.** Drive-in/drive-thru window facilities.
- C.** Churches or places of worship, except those existing at the time of the adoption of this Ordinance.
- D.** Public schools, private schools, or parochial schools.
- E.** Manufacturing, distribution or wholesale facilities.
- F.** Laundromats and dry cleaning facilities.

§ 8.3 DESIGN STANDARDS

A. General Architectural Requirements

1. New construction or reconstruction located within the TC Zone District shall be compatible with historic materials, features, size, scale, and proportions.
2. Construction of a new building, exterior alterations or additions to an existing building, or a more intense change in use of a building or outside area shall require approval of design review subject to § 3.10 of this Code prior to issuance of a building permit.
3. Match replacement doors and windows and/or new doors and windows as closely as possible to the original building or those of adjacent structures (in the case of new construction). Ensure that replacement doors and windows fill the entire opening and that they duplicate the original design as much as possible.
4. Whenever possible, relocate or screen outdoor utilities. Mechanical equipment must be screened from public view.

B. General Site Plan Requirements:

1. New construction projects shall provide ground floor retail space that opens directly on the street or pedestrian spaces.
2. All off-street parking spaces shall be located in the rear or to the side of the structures to avoid visibility from public streets and the interruption of the pedestrian environment.
3. Bicycle parking facilities shall be encouraged and should be located near the pedestrian space and building entrance.
4. Link structures to the public sidewalk, where possible, with texture pavement, landscaping, street furniture, canopies or trellises.
5. Canopies over the sidewalk are encouraged, subject to receiving an approved public encroachment permit and building permit.

C. Outdoor Sidewalk Café:

Establishment of non-enclosed outdoor sidewalk café on private property and within the public rights-of-way is encouraged in the downtown commercial area of the TC Zone District. Minimum dimensional and performance standards are established to ensure that the café design is functionally compatible with other needs and adjacent uses, and provides for the protection of public health, safety and welfare, subject to Town approval.

1. Outdoor sidewalk cafés must not obstruct sidewalk pedestrian traffic or create public health and safety hazards.
2. Roof material covering an outdoor café may be temporary, fixed, or retractable, and can extend into the public right-of-way from the face of the building a maximum distance of ten (10) feet, subject to an approved encroachment permit, but in no way shall the covering extend over on-street parking spaces, or the vehicular travel lane of the adjacent roadways.
3. Awnings, canopies, or similar protective shelters must be fire-treated or non-flammable.
4. A definable decorative barrier which physically separates the outdoor café seating area from adjacent pedestrian traffic shall be provided. The design and materials of such barrier must complement and be compatible to the architectural design of the restaurant's building façade.
5. All outdoor sidewalk cafés must be handicap accessible.
6. Decorative/accent lighting may be incorporated into the outdoor café structure, awning, or canopy, and must meet all Town Code requirements.

D. Vacant Buildings:

The appearance of vacant buildings does not encourage pedestrian environment in the downtown area. Since vacant buildings may inhibit the growth of the retail environment, special provisions are necessary to mitigate the impact of vacant buildings in the TC Zone District. Buildings within the TC Zone District shall give the appearance of use. The following regulations shall apply to all vacant retail space in the TC Zone District:

1. All windows and other openings of a vacant structure shall provide a window display or window covering that is aesthetically compatible.
2. Windows that are "boarded-up" or have security shutters shall be decorated in a manner that is of an artistic quality. Expanded metal is not an acceptable material.
3. Upon receipt of a notice of noncompliance with this section, the property owner shall have sixty (60) days in which to provide the window display or covering.
4. Failure to provide the window display within the sixty (60) day period shall result in a violation of the ordinance.

§ 8.4 LANDSCAPE AND STREETScape REQUIREMENTS**A. Landscaping Requirement:**

1. Landscaping may include trees, shrubs, ground covers, vines, or potted annuals. The use of exotic species or allergenic species shall be prohibited. Landscaping within the public rights-of-way and parking areas shall be approved by the Zoning Administrator.
2. Plant specifications:
3. Trees - Where required by this Ordinance shall be a minimum of fifteen (15) gallon size with forty (40) percent of the required number of trees to be twenty- four (24) inch box size or larger.
4. Shrubs - Where required by this Ordinance shall be a minimum of one (1) gallon size upon installation with fifty (50) percent of the required number to be five (5) gallon in size.
5. Hardscape - Where required by this Ordinance, or as approved as part of a proposed project, shall include textured pavement, colored pavement, bricks, indigenous stone, broken face concrete blocks, exposed aggregate concrete, stucco, or other similarly approved materials.

B. Main Street and Magma Avenue:

Landscaping shall be consistent with the Town's adopted streetscape improvement plans, if such plans exist, and shall be installed as part of the on-site/off-site development improvement requirements for properties fronting Main Street and Magma Avenue.

C. Local Streets:

1. A minimum of one (1) tree shall be planted for every thirty (30) lineal feet of street

frontage.

2. A landscape plan shall be submitted to and approved by the Town for all new construction, additions, remodels, and renovation projects within the TC Zone District. Such plan shall contain botanical and common names for all trees, shrubs and groundcover, quantity, and size, as well as other landscape elements (e.g. boulders, decomposed granite, etc).

D. Streetscape Requirements:

Benches, street lights, trash receptacles, street signs, planters, pots or other containers, and tree grates shall all be consistent in style with any approved "Town Center Streetscape" and encouraged as part of the project design.

§ 8.5 COMPLIANCE WITH OTHER PROVISIONS

- A. General Provisions: The general provisions in Article XIII (General Provisions) of this Ordinance shall apply.
- B. Parking Regulations: The parking regulations as provided in Article XIV (Parking Provisions) of this Ordinance shall apply.
- C. Outdoor Lighting: All outdoor lighting shall comply with Article XV (Outdoor Lighting Provisions) of this Ordinance.
- D. Signs: All signage shall comply with Article XVII (Sign Provisions) of this Ordinance.

§ 8.6 DENSITY, AREA, BUILDING AND YARD REGULATIONS

The following chart (Table No. 4) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentage, and distance between buildings.

TABLE NO.4
Town Center Zone District

Zone District	Minimum Lot Area (sq. ft.)	Maximum Building Height (feet)	Minimum Yard Setbacks				Maximum Lot Coverage	Distance Between Buildings
			Front	Side	Street Side	Rear		
TC Commercial	3,000	30	0	0	0	0	See footnote b. below	0 ^c
TC Residential	5,000	24	20	10	20	25	60%	6 ^c

FOOTNOTES:

- a. For any properties located adjacent to Main Street, housing may only be permitted as set forth in § 8.1.A.8 of this Article.
- b. Lot coverage may be one-hundred (100) percent of the lot area, excluding any easements.
- c. In compliance with the regulations of the International Building Code (IBC) and the Town's Fire Code.

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ARTICLE IX – INDUSTRIAL ZONE DISTRICTS

§ 9.0 PURPOSE

The Industrial Zone Districts are designed to provide for a range of industrial land uses. The purpose of these zone districts is to provide for industrial development in locations which are suitable and appropriate, taking into consideration existing conditions, future land use needs, and the availability of public services. It is intended that these zone districts accommodate a variety of uses including office park, garden industrial park and general industrial uses. The Industrial Zone Districts are further described in the following categories:

- A. Garden Industrial (I-1) Zone District: The purpose of this Zone District is to accommodate employment uses including administrative and research industries as well as limited industrial uses involving light manufacturing, assembling, warehousing, and wholesaling activities provided that the primary activities are conducted entirely within an enclosed building. Associated support office uses are also included within this Zone District.

- B. General Industrial (I-2) Zone District: The purpose of this Zone District is to accommodate intense industries involving manufacturing, warehousing, assembly, and storage. The uses include the production, assembly, and processing of large products as well as those which may generate special impacts on surrounding properties. The Zone District is characterized by open uses and/or storage, industrial processes which may involve chemical processing large amounts of materials transfer, and large scale machinery and structures.

§ 9.1 PERMITTED USES I-1 ZONE DISTRICT

- A. Permitted uses in the Garden Industrial (I-1) Zone District are those listed below, provided that all activities are conducted within an enclosed building with limited outside storage. Outside storage of materials, equipment, and products related to the primary activity is permitted provided that the outside storage area is screened by a fence or wall. No goods, materials or objects may be stacked higher than the fence or wall. No building permit shall be issued for a use not specifically mentioned.
 - 1. All uses permitted in the C-1 and C-2 Zone Districts.
 - 2. Laboratories for research and product development.
 - 3. Manufacturing, assembly, packaging, bottling, processing, distributing, warehousing, wholesale sales uses provided that such uses shall conform to the following requirements:
 - a. The primary use of the property is not the basic processing and compounding of raw materials.
 - b. All outside storage of material or equipment, as ancillary to the primary use, shall occupy the rear one-half (1/2) of the lot.
 - 4. Food processing and kindred products, except:

- a. Fish canning and curing.
 - b. Meat and poultry slaughterhouses and packing plants.
 - c. Rendering or refining of fats and oils.
- 5. Commercial kennels, animal shelters, and veterinary hospitals with outdoor boarding or exercise facilities.
 - 6. Satellite earth station.
 - 7. Wireless communication towers and antennas provided that they are located on property owned, leased, or otherwise controlled by the Town of Superior.
 - 8. Solar siting and installation as set forth in Article XIII, § 13.13 (Solar siting).
 - 9. Wholesale/retail facilities contained within a building.
- B. Because no list of uses can be complete, decisions on uses not listed will need to be determined as similar uses by the Planning and Zoning Commission.

§ 9.2 USES SUBJECT TO A CONDITIONAL USE PERMIT (I-1) ZONE DISTRICT

The following uses are permitted in the Garden Industrial (I-1) Zone District only after review and approval of a Conditional Use Permit in accordance with Section 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements that may be reasonably imposed by the Planning and Zoning Commission.

- A. All uses requiring approval of a Conditional Use Permit in the C-1 and C-2 Zone Districts.
- B. Wireless communication towers and antennas that are not owned, leased, or otherwise controlled by the Town of Superior in accordance with the requirements of Article XVI of this Ordinance.
- C. Automated collection centers.
- D. Privately owned parking facilities.

§ 9.3 PERMITTED USES IN I-2 ZONE DISTRICT

- A. Permitted uses in the General Industrial (I-2) Zone District shall be only those uses listed provided that all activities are conducted entirely within an enclosed building or within an area enclosed on all sides with a decorative solid masonry wall, not less than six (6) feet in height. Outside storage of materials, equipment, and products related to the primary activity is permitted provided that the outside storage area is screened by a fence or wall and no goods, materials or objects are stacked higher than the fence or wall. Permitted uses are subject to all other applicable standards of this Ordinance.
- 1. Those uses permitted in the Garden Industrial (I-1) Zone District.
 - 2. Construction offices and construction yards provided that the open storage yard area is screened by an eight (8) foot high solid masonry wall, or other such material as approved by the Planning and Zoning Commission.

3. Open storage yards for the storage of boats, trailers, and recreational vehicles provided there is no storage of abandoned, damaged, or junked boats, trailers or recreational vehicles, and that the yard area is screened by an eight (8) foot decorative view obscuring wall.
 4. Heavy equipment repair, sales, and rentals.
 5. Automobile painting and body repair.
 6. Retail and wholesale lumber yard, including incidental mill work.
 7. Commercial aviation businesses such as aircraft repair, aircraft sales and services, and air charter services.
 8. Wireless communication towers and antennas provided that they are located on property owned, leased, or otherwise controlled by the Town of Superior.
 9. Solar siting and installation as set forth in Article XIII, § 13.13 (Solar siting).
- B.** Because no list of uses can be complete, decisions on uses not listed will need to be determined as similar uses by the Planning and Zoning Commission.

§ 9.4 USES SUBJECT TO CONDITIONAL USE PERMIT I-2 ZONE DISTRICT

The following uses are permitted in the General Industrial (I-2) Zone District only after review and approval of a Conditional Use Permit, in accordance with § 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements reasonably be imposed by the Commission.

- A.** Drive-in theater.
- B.** Recycling transfer stations or automated collection centers, municipal or county landfills.
- C.** Water and sewer treatment plants and utility generating plants.
- D.** Mineral extraction operations, including the removal of sand, rock, soil, and gravel.
- E.** Industrial metal smelting, refining, casting and extrusion.
- F.** Central mixing plants for cement or concrete, or asphalt and asphalt processing plants.
- G.** Dyeing and finishing of textile products.
- H.** The manufacture, disposal, distribution, warehousing or transfer of hazardous materials.
- I.** Automobile wrecking and salvage yards, storage and processing of scrap metals.
- J.** Wireless communication towers and antennas not on property owned, leased, or otherwise controlled by the Town of Superior as approved in accordance with the requirements of Article XVI of this Ordinance.
- K.** Watchman quarters when incorporated within an on-site industrial building for security purposes.

§ 9.5 **PROHIBITED USES**

All residential uses with the exception of § 9.4.K. above.

§ 9.6 **DESIGN STANDARDS**

A. General Architectural Requirements:

1. Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, shall be designed to appear as an integral part of the building.
2. The building materials of a project shall be durable, require low maintenance and be of a substantial quality.
3. All building elevations which face a public street, or are adjacent to residential uses or zoning districts, shall have an architectural design other than metal or corrugated metal.
4. All buildings shall be designed to incorporate architecture that provides a variety of massing, building heights, and stepping roof lines.

B. General Site Planning Requirements:

1. Service areas and loading docks should be oriented away from adjacent residential and office zoning districts and should not front onto or be visible from the public street.
2. Open space equivalent to ten (10) percent shall be required for industrial developments. Open space does not include parking areas.

§ 9.7 **LANDSCAPE AND SCREENING REQUIREMENTS**

A. Landscaping Requirements:

1. Landscaping may include trees, shrubs, ground covers, vines, fountains, benches or other organic materials used for creating an attractive appearance. The use of exotic species or allergenic species shall be prohibited. Landscaping within the public rights-of-ways, required open space, landscape areas, parking areas, and retention/detention basins shall be approved by the Zoning Administrator.
2. Plant specifications: Subject to the requirements of Appendix "B" and § 3.10 (Design Review) of this Ordinance.
3. The property owner or a "Property Owner's Association" shall maintain all landscape materials and landscaped areas, including that within the public rights-of-way adjacent to the site, in accordance with the approved landscape plan.

B. Screening Requirements:

1. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three (3) feet in order to adequately screen the undercarriages of the parked vehicles.

2. All perimeter walls, storage area walls, and screen walls shall be decoratively treated on all sides to match the architectural style and design of the buildings and structures.
3. Trash and refuse collection locations shall be screened with a six (6) foot decorative masonry wall. Trash and refuse areas shall be located such that they are not the visual focal point of a driveway or parking area.
4. Outside storage areas shall be screened from the public street view and adjacent residences, office, and commercial uses to a height of at least six (6) feet. Materials shall not be stacked, piled, or stored in such a manner, as to project above the screen wall.

§ 9.8 BUFFER YARD REQUIREMENTS

Where Industrial Zone Districts are adjacent to or abutt, even if separated by an alley, a residential or commercial zone district, there shall be a buffer yard of not less than twenty (20) feet or the height of the building, whichever is greater, of which a minimum of fifteen (15) feet shall be landscaped.

§ 9.9 COMPLIANCE WITH OTHER PROVISIONS

- A. General Provisions: The general provisions in Article XIII shall apply.
- B. Parking Regulations: Parking regulations as set forth Article XIV shall apply.
- C. Outdoor Lighting: Outdoor lighting requirements as set forth in Article XV shall apply.
- D. Signs: Sign regulations as set forth in Article XVII shall apply.

§ 9.10 DENSITY, AREA, BUILDING AND YARD REGULATIONS

The following chart (Table No. 5) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentages, and distance between buildings.

TABLE NO. 5
Industrial Districts

Zone District	Lot Area (Sq. Ft.)	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Coverage	Distance Between Buildings
			Front	Side	Street Side	Rear		
I-1	43,560	40	20	10	20	25	50%	15
I-2	43,560	40	20	10	20	25	60%	15

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ARTICLE X – OPEN SPACE ZONE DISTRICTS

§ 10.0 PURPOSE

The purpose of the Open Space Zone Districts are to conserve and protect open space, washes, natural desert lands, wildlife habitat, and lands agreed to be left undeveloped through the plan approval process. The primary purpose of designating these areas is to raise the degree of assurance that designated open space for conservation and recreational areas will remain open. The Open Space Districts are further delineated in the following categories:

- A. Open Space Conservation (OSC) Zone District: The purpose of this Zone District is to conserve significant natural features and open spaces, such as major peaks and ridges, mountains, major rock outcrops, view corridors, and significant stands of natural vegetation specimens.
- B. Open Space Recreational (OSR) Zone District: The purpose of this Zone District is to provide for land uses in areas generally subject to periodic inundation. It is further intended to provide for land uses in areas which have been set aside to serve recreational functions or to provide open space areas.

§ 10.1 PERMITTED USES

- A. Open Space Conservation (OSC) Zone District: Permitted uses in the Open Space Conservation Zone District shall be only those uses listed below. Permitted uses are subject to all other applicable standards of this, as well as other Town resolutions and ordinances.
 - 1. Undeveloped natural land and archaeological or historic sites.
 - 2. Hillside lands designated as pending parcels in the density transfer process through the subdivision development process.
 - 3. Unpaved trails or pathways for use by hikers and horses.
 - 4. Solar siting and installation as set forth in Article XIII, § 13.14 (Solar siting).
- B. Open Space Recreational (OSR) Zone District: A building or premise in an Open Space Recreational Zone District shall be used only for the purposes listed. Permitted uses are subject to all other applicable standards of this Ordinance.
 - 1. Golf course, including club houses and driving ranges located thereon, but not including miniature golf courses or practice driving ranges not associated with a golf course operated for commercial purposes.
 - 2. Parks including, but not limited to, picnic grounds, playgrounds, and play fields.
 - 3. Man-made water features and watercourses.
 - 4. Paved or unpaved trails or pathway systems for use by hikers, bicyclists, and pedestrians.

5. Public and private natural wildlife reserves or sanctuaries, and arboretums.
6. Utility services, but not including offices, wastewater treatment plants, generating stations, and sub-stations.
7. Wireless communication towers and antennas provided that they are located on property owned, leased, or otherwise controlled by the Town of Superior.

§ 10.2 USES SUBJECT TO CONDITIONAL USE PERMIT

- A. Open Space Conservation (OSC) Zone District: Uses permitted in the Open Space Conservation Zone District only after review and approval of a Conditional Use Permit, in accordance with § 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Planning and Zoning Commission.
 1. Public and private natural wildlife reserves or sanctuaries, and arboretums.
 2. Access driveways and parking areas for trailheads.
- B. Open Space Recreational (OSR) Zone District: Uses permitted in the Open Space Recreational Zoning District only after review and approval of a Conditional Use Permit, in accordance with § 3.3 of this Ordinance. Conditional uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Planning and Zoning Commission.
 1. Equestrian facilities in conjunction with an approved single family residential neighborhood development.
 2. Commercial riding stables and boarding stables provided the site contains at least five (5) acres. Additional acreage may be required based on the number of horses stabled thereon.
 3. Wireless communication towers and antennas not on property owned, leased, or otherwise controlled by the Town of Superior as approved in accordance with the requirements of Article XVI of this Ordinance.
 4. Cemeteries

§ 10.3 PROHIBITED USES

All residential uses.

§ 10.4 DEVELOPMENT STANDARDS

- A. In order to fulfill the purposes of the Open Space Zone Districts, all land not used for the permitted or conditional use in accordance with § 10.1 and § 10.2 shall be natural area open space that is undisturbed by man except where re-vegetation has been approved.
- B. Whenever a portion of the property is disturbed by the construction of a permitted or conditional use, the disturbed area shall be re-vegetated around the improvements to restore a natural desert character. The location of areas to be restored to a natural

appearance and the re-vegetation techniques used shall be approved by the Town.

- C. If a portion of the land proposed for OSC has been cleared of vegetation, the disturbed area shall be restored to a natural appearance through re-vegetation and re-grading in a manner approved by the Town.

§ 10.5 COMPLIANCE WITH OTHER PROVISIONS

- A. General Provisions: The applicable requirements as set forth in Article XIII shall apply.
- B. Parking Regulations: Parking requirements as set forth in Article XV shall apply.
- C. Outdoor Lighting: All outdoor lighting requirements as set forth in Article XV shall apply.
- D. Signs: Sign requirements as set forth in Article XVII shall apply.

§ 10.6 DENSITY, AREA, BUILDING AND YARD REGULATIONS

The following chart (Table No. 6) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentages, and distance between buildings.

TABLE NO. 6
Open Space Districts

District	Lot Area (Acres)	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Coverage	Distance Between Buildings
			Front	Side	Street Side	Rear		
OSC	5	24	60	30	30	60	5%	15
OSR	5	24	60	30	30	60	5%	15

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ARTICLE XI – MANUFACTURED HOMES (MH) OVERLAY ZONE DISTRICT

§ 11.0 PURPOSE

To provide for an overlay zone that will permit the placement and regulate the permanent installation of manufactured homes for occupancy as single residential dwellings either on individual parcels or lots. Manufactured homes located on individual parcels or lots shall be defined and situated to assure similarity in exterior appearance and in keeping with the architectural character of the neighboring site-built dwellings and the character of the surrounding neighborhood in general.

Manufactured homes shall be situated and designed to provide a desirable residential environment that will protect adjacent residential property values and is consistent with the future land-use plan of the community. A variety of densities are possible depending upon the base zone to which the overlay zone is applied.

§ 11.1 INTENT

The intent of these provisions is to provide affordable and diversified housing opportunities within the Town while maintaining established standards. Manufactured homes shall meet the most current HUD Code standards, all regulations of the Office of Manufactured Housing, as well as compliance with all provisions of this Article.

§ 11.2 PERMITTED USES

- A. Permitted uses in the "MH" Manufactured Home Overlay Zone District shall be only those uses listed as permitted by-right within the underlying Single Family Residential Zone Districts. Site built dwelling units and modular homes are also permitted within the overlay zone. Permitted uses are subject to all other applicable standards of this Ordinance.
- B. Building Permit Required.
It shall be unlawful for any person to install a manufactured home, park model structure, accessory structures, addition or any electrical, plumbing, or mechanical component without first obtaining a required permit or permits from the Town Building Division.
- C. Owner Approval Required.
No person shall install any manufactured home, structure, or addition without approval of the property owner, the owner's agent, or other authorized representative.
- D. Foundation Required.
Manufactured homes located on individual single-family zoned (i.e., not within parks) shall be permanently attached to a foundation that is approved by the Arizona Office of Manufactured Housing.
- E. Permit Exemptions.
The Town Code Article 12-3-4 Exemptions for Single Family Residential Dwellings and Manufactured/Mobile Homes apply.

§ 11.3 PLANNING REVIEW PROCESS

- A.** The property owner seeking to place a manufactured home on an individual parcel or lot shall be required to obtain a building permit prior to the installation of the manufactured home unless installed by a licensed manufacturer. Prior to submitting an application for a building permit, the owner shall submit the following materials for Planning Review:
1. Site Plan.
 2. Elevations or color photographs of all sides of the structure.
 3. Roof slope (expressed in a ratio horizontal to vertical feet) and roofing material description.
 4. Description of any proposed additions or alterations including photographs where possible.
 5. Description of the exterior finish including materials and colors.
- B.** If the manufactured home is to be installed by a licensed manufacturer, the applicant or owner shall complete, submit, and pay the fees, as set forth by resolution of the Town Council, the Town's form entitled "Application for Design Review." In addition, the requirements set forth in § 11.4 (Review Criteria) of this Ordinance shall also be met. In this instance the application for design review shall be reviewed and acted up by the Town Building Division.

§ 11.4 REVIEW CRITERIA

- A.** In order for a manufactured home to be placed on a parcel or individual lot in existing residential or built-up residential areas where the "Manufactured Home Overlay Zone" has been approved, the manufactured home shall be reviewed for compliance with the following criteria:
1. The residence should be situated on the lot in a compatible manner with surrounding residences through location of windows, doors, front porches, other architectural features, or landscaping.
 2. The architectural design as well as the exterior materials of the residence shall be compatible with the residential dwellings in the immediate area and the Design Standards outlined in § 11.5 of this Article.
 3. The structure is certified under the National Manufactured Housing Construction and Safety Standards Act of June 15, 1976 and the laws of the State of Arizona and is in good physical condition structurally and cosmetically, complies with the design standards of this article, and was constructed not more than ten (10) year prior to date of application for building/installation permit.-
- B.** If the Zoning Administrator determines that any of the four criteria stated in § 11.4.A has not been met, the application will be referred to the Planning and Zoning Commission for Final Review.

- C. The Commission shall consider the manufactured home application and the Zoning Administrator's report. If satisfied that all of the criteria have been met, the Commission may approve the application.
- D. If the Commission denies the application, the applicant may appeal the Commission's decision to the Board of Adjustment. The decision of the Board of Adjustment shall be final.

§ 11.5 DESIGN AND CONSTRUCTION STANDARDS

A. Mobile Homes:

Work related to routine maintenance and repair shall be allowed under the Town Code Article 12-3-4. It shall be illegal to reconstruct mobile home units (those built before June 15, 1976) without a rehabilitation permit in the Town of Superior.

- 1) "A rehabilitation permit shall be obtained from the Department [Arizona Department of Housing, Manufactured Housing Division] before any modification of a mobile home (See A.A.C. R4-34-606, Arizona Administrative Code)."
- 2) Additions of habitable rooms, garages, accessible structures, or storage rooms to a mobile home must be constructed such that they are structurally independent from the mobile home and in compliance with the Technical Codes and a permit issued.

B. Manufactured homes:

MH installation shall comply with the requirements of Arizona Revised Statutes, Title 41, Chapter 37, Article 3 § 41-4001 thru 4010 and Arizona Administrative Code, Title 4, Chapter 34, § R4-34-101 thru 805. The references identified in R4-34-102 shall provide the code requirements for the installation of attached accessory structures. Detached structures shall comply with the Technical Codes. Reconstruction of a MH requires that plans for the reconstruction be submitted and a permit issued.

In order to be approved, the manufactured home must be found to have design compatibility with other dwellings in the immediate area, which is the area within three hundred (300) feet of the subject lot or parcel or the nearest five (5) residential dwellings. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:

- 1. Height: Unless the topography of a particular lot precludes it, the manufactured home shall be installed no higher from grade than eighteen (18) inches (from ground to frame) on the highest side and not less than twelve (12) inches on the low side. The Town Manager, or his/her designee, is authorized to approve minor deviations from the height requirement after inspection of the property to determine if such deviation is necessary because of lot conformity.
- 2. Foundations: Foundations system for manufactured homes and mobile homes not identified by a manufacturer's installation manual are to be submitted for review and approval as an accessory structures submittal. Set upon a permanent foundation, as specified by the manufacturer, and approved by the Arizona Department of Housing, Manufactured Housing

Division, and that the space at the perimeter, between the home and the ground, be enclosed by concrete, concrete masonry units, brick or stone, with required access.

3. Exterior Siding: Exterior siding made of non-reflective and non-metallic materials customarily utilized in the construction of conventional single-family housing shall be permitted. Acceptable siding materials includes, but is not limited to, vinyl, wood, stucco, brick, stone, or other masonry materials or any combination of these materials. The use of "Tl-II" siding (rough sawn plywood siding with vertical grooves at four (4) inches or eight (8) inches O.C.) is not permitted.
4. Roof Structure and Materials: All roof structures shall be sloped and provide an eave projection of no less than six (6) inches and no greater than thirty (30) inches. A shingle or metal roof with a minimum pitch of 3:12. Unfinished galvanized steel, unfinished aluminum, wood shake shingles, or fiberglass/asphalt shingles less than three hundred twenty-five (325) pounds per one hundred (100) pounds per square feet shall not be permitted.
5. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation. Mechanical equipment such as electrical meter, coolers and air conditioning units, service components, and similar devices, whether ground level, wall mounted, or roof mounted, shall be designed to appear as an integral part of the building.
6. Driveway: A driveway a minimum of 9.0 feet width of constructed of asphalt, concrete or dust proof gravel that has clearly defined boundaries.
7. Garage or Carports: The garage or carport shall incorporate the design and materials which are compatible with the main structure. A carport or garage measuring a minimum of 9.00 feet in width and 18.00 feet in length (an awning attached to the MH can provide the carport area).
8. All setbacks, parking, lot coverage, height and sign requirements of the base district shall apply.
9. Manufactured homes not meeting installation and/or architectural requirements specified in this section shall be permitted only upon approval of a Conditional Use Permit, pursuant to the provisions of § 3.3 of this Ordinance.
10. Accessory Structures:
 - Building Permits are required for an accessory structure.
 - Plans and calculations submitted by an appropriately licenses person or entity for structures attached as accessory to a manufactured home, mobile home, or factory build building. Plan approval is required prior to installation of the accessory structures that are included as part of the installation.

- Accessory structures include the installation, assembly, connection, or construction of any one-story habitable room, storage room, patio, porch, garage, carport, stairs, awning, skirting, retaining wall, solar system or wood decking attached to a new or used manufactured home, mobile home, or factory-built building.

C. All Manufactured Homes Sets:

1. The construction/configuration of exterior egress structures (stairs, ramps, handrails, etc.) must comply with the minimum requirements of International Residential Code (Section R311). MHs must have a minimum of two means of egress as required by the 24 CFR Part 3280, Manufactured Home Construction and Safety Standards.
 - a) There shall be a landing at the top and bottom of each stairway.
 - b) The width of each landing shall not be less than the width of the stairway served.
 - c) Every landing shall have a minimum dimension of 36 inches measured in the direction of travel.
 - d) Handrails shall be provided on at least one side of each continuous run of treads or flight with four or more risers.
 - e) Exterior landings, decks, and stairs shall be positively anchored to resist both vertical and lateral forces.
 - f) Where wood or wood-based products/materials are used for landings, decks, and stairs the protection of the material shall be in compliance with R317 of the state adopted International Residential Code.
2. For final inspection of a MH set all skirting or foundation elements, all required egress elements, and all required site drainage shall be complete and all requirements met.

D. Additions to Manufactured Home:

The livable floor area of a home may be enlarged by the construction of an attached structure provided that the following criteria are met:

- a) The attached structure must conform to and meet all requirements of the Technical Code and zoning code.
- b) If the home is removed from the lot, for any reason, and not replaced with a similar structure within a period of three months, the attached structure must also be removed, disassembled or torn down.
- c) The above restrictions do not apply to an addition to a home which is specifically manufactured for attachment to that make and model of the subject home.

§ 11.6 COMPLIANCE WITH OTHER PROVISIONS

- A. General Provisions: General Provisions as set forth in Article XIII shall apply.
- B. Parking Regulations: Parking Regulations as set forth in Article XIV shall apply.
- B. Outdoor Lighting: Outdoor lighting as set forth in Article XV shall apply.

§ 11.7 DENSITY, AREA, BUILDING AND YARD REGULATIONS

The following chart (Table No.7) specifies the minimum lot sizes, minimum lot width, maximum building heights, minimum yard setbacks, maximum lot coverage percentages, and distance between buildings for Manufacture Mobile Home Parks Only.

**TABLE NO.7
Manufactured Home Park District**

District	Lot Area (Acres)	Bldg. Height (Feet)	Minimum Yard Setbacks				Lot Coverage	Distance Between Buildings
			Front	Side	Street Side	Rear		
MH	0.05	12 (Min) 18 (Max)	10 Feet	5 Feet	5 Feet	5 Feet	5%	15

Notes:

3. The Front Setback and Street Side Setback shall be measured from the nearest edge of the interior road/curb fronting the park space/ Lot.
4. One Detached Accessory Storage Structure smaller than 120 Square Feet in size may be located anywhere to the side or rear of the Manufactured Home. Additional accessory structures, including awnings, shall comply with the front, side and rear setbacks in the Table No. 7.

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ARTICLE XII – PLANNED DEVELOPMENT (PD) ZONE DISTRICT

§ 12.0 PURPOSE

The purpose of the Planned Development (PD) Zone District is to provide for the orderly development of land consistent with the Town General Plan and Zoning Ordinance while permitting flexibility in the design of residential, commercial, industrial, and recreational development, including dry camping, of a quality which could not be achieved by traditional lot by lot development under conventional zoning concepts. The PD Zone District is further delineated in the following categories:

§ 12.1 PLANNED DEVELOPMENT (PD) ZONE DISTRICT

A. Applicability. The PD zone district is intended to be applied when:

1. The objectives of the General Plan would be more effectively achieved through the design flexibility of a PD zone district; or
2. The physical characteristics of a site necessitate restricting conventional development opportunities to preserve a significant amenity or natural feature, or mitigate a man-made or natural hazard; or
3. It is necessary to ensure land use compatibility and appropriate design by requiring the merging of areas or parcels into a single overall land use plan and site design that might otherwise be developed separately.

B. Land Use Regulations:

1. Uses within a PD zone district shall be established by a development plan approved for the site.
2. Uses established by a development plan shall be consistent with the specific plan text for the project site.
3. Prior to the approval of a zone change to “Planned Development,” the conditions of approval for the development plan, approved in accordance with the provisions of this Article, shall establish the permitted and the conditionally permitted primary and accessory uses for a planned development project.

C. Application Procedures:

An application for change of zone to a PD zone district shall involve the following:

1. An application for a zone change to PD shall be accompanied by a preliminary development plan that addresses all land included within the proposed PD zone district.
2. Prior to the formal submission of a planned development application, the project applicant shall meet with the Zoning Administrator. The meeting is intended to acquaint the applicant with the procedural requirements of this Article, provide

an opportunity to discuss the proposed development concept and the plan's compatibility with or variance from, any applicable policies, issues, or development regulations.

3. The application for a change of zone to the PD zone district shall be acted upon by the Town Council in a manner consistent with the provisions of this Code.
4. Upon adoption of the PD district and the accompanying preliminary development plan, further action by the Town Council concerning the approval of the PD application (final development plan or plat map) is not required unless specifically requested by the Town Council. If the Council does not specifically request approval of the final development plan, then the Town Manager may approve that final plan, subject to the following:
 - a. The Town Council shall read the enabling ordinance for the district change to the PD zone district prior to approval of the final development plan.
 - b. In the event a PD zone district is carried out in phases and separate final development plans are to be approved for each phase, the Town Council shall have read the enabling ordinance for the entire project.
 - c. An application for a final development plan may be for a portion of the land included within the PD zone district or a phase thereof, provided that:
 - (1) Each phase shall function as a complete and separate development from the remaining phases;
 - (2) Any densities proposed or open space areas provided within the subject phase shall not result from transfer of densities from adjoining phases;
 - (3) Other improvements that may be necessary to protect the public health, safety, and welfare have been required.

D. Preliminary and Final Development Plan Contents:

1. The development plan shall function as a development suitability analysis and land use concept plan that achieves the following:
 - a. Identifies and quantifies constraints and opportunities for development posed by:
 - (1) The physical characteristics of the site;
 - (2) The availability of public services and facilities;
 - (3) The capacity of the existing circulation system; and
 - (4) The existing and planned land use of adjacent properties.
 - b. Establishes a list of specific limits, parameters, and planning objectives to guide development based on the identified development constraints

and opportunities.

- c. Describes one or more potential development schemes derived from the limits, parameters, and planning objectives controlling development. Each proposed development scheme shall describe the following:
 - (1) Proposed land uses and approximate distribution of such land uses;
 - (2) Proposed density of residential uses;
 - (3) Estimated service demands;
 - (4) The anticipated impact on the existing circulation system;
 - (5) The anticipated impact on adjacent properties; and
 - (6) The relationship of the project to the General Plan.
2. The development plan shall function as an overall comprehensive plan for development for the PD zone district that sets forth a written text, maps and/or diagrams, a detailed plan of development based upon the application of the established parameters, and planning objectives controlling development. Said plan shall describe in detail the following:
 - a. Proposed land uses and building types, the functional management of such uses and building types and relationship to the site, site grading, circulation, lighting, paving, parking, screening, setbacks, recreation and open space areas, and adjacent properties;
 - b. How the established limits, parameters and planning objectives have been adhered to;
 - c. The level of public services and facilities required by the proposed development and the program for providing, operating and maintaining such services and facilities;
 - d. Access and circulation requirements;
 - e. Known man-made and natural hazards and methods for mitigation such hazards;
 - f. Significant natural features and areas to be retained for common open space and provisions for the preservation, conservation, utilization, and maintenance of such areas; and
 - g. How the plan conforms to the objectives of the General Plan and the provisions of this Article.
3. The development plan shall set forth the location and dimensions of all uses and structures in sufficient detail to permit preparation of construction drawings.
4. If ambiguity exists as to the specific dimensions or extent of any designated area on the development plan, the specific boundaries shall be set by the filing of a

legal description and map of the parcel in question.

E. Findings:

1. Prior to approving a request for a zone change to the PD zone district, the Town Council shall find all of the following:
 - a. That the proposed plan is consistent with the General Plan.
 - b. That the physical characteristics of the site have been adequately addressed, and that the site is adequate to accommodate all proposed land uses and the general arrangement of such uses.
 - c. That the plan adequately addresses and reflects all natural and man-made hazards associated with the project site.
 - d. That the capacity of the circulation system is adequate or can feasibly be improved to accommodate the anticipated requirements of the proposed project.
 - e. That realistic, feasible methods exist to accommodate the public service and facilities requirements of the proposed project.
 - f. That the proposed land uses and proposed arrangement of such uses will be compatible with the existing and planned land use of adjacent properties.
2. Prior to approving an application for a final development plan, the Town Council, if not waived by the Council, shall make the following findings, otherwise the Town Manager shall make the findings:
 - a. That the proposed development is consistent with the General Plan.
 - b. That the site for the proposed development is adequate in size and shape to accommodate proposed uses and development standards for all yards, open spaces setbacks, walls and fences, parking areas, loading areas, landscaping, and other features.
 - c. That the improvements required by the conditions of approval and the proposed manner of development adequately addresses any natural and man-made hazards affecting the proposed development and the project site.
 - d. That the site for the proposed development has adequate ingress and egress.
 - e. That adequate public services exist, or will be provided in accordance with conditions of approval, to serve the proposed development and that approval of the proposed development will not result in a reduction of such public services to properties in the vicinity in a manner that is detrimental to the public health, safety, and welfare.
 - f. That the proposed development, as conditioned, will not have a substantial adverse effect on surrounding property or the permitted use

thereof, and will be compatible with existing and planned land use character of adjacent properties.

- g.** The final plan is in substantial compliance with the approved development plan.

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ARTICLE XIII – GENERAL PROVISIONS

§ 13.0 PURPOSE

The purpose of this Article is to establish general development and performance standards applicable to all Zone Districts. The standards and regulations set forth in this Article shall qualify or supplement, as the case may be, the District Regulations set forth elsewhere in this Ordinance. Any use that is not specifically allowed or not analogous is hereby declared to be prohibited.

§ 13.1 USE RESTRICTIONS

- A. Permitted Uses: Shall be only those uses listed as permitted uses within the zoning districts and shall be subject to the specific requirements of the ordinance.
- B. Conditional Uses: Shall be only those uses listed as conditional uses and shall require a Conditional Use Permit in order to be established within the zoning district in which they are listed.
- C. Unspecified Uses: Whenever a use is proposed that is not listed as a permitted or conditional use in any zone district, the Planning and Zoning Commission may make such a determination concerning its applicability. In making their determination, the Planning and Zoning Commission shall consider similar uses listed in this Ordinance.

§ 13.2 SUBDIVIDING RECORDED LOTS

- A. No lot may be divided to create a lot not in conformance with these regulations. No lot shall be divided or combined in any manner other than through subdivision procedures as specified by the Town's Subdivision Ordinance.
- B. No lot may be reduced in area where any open space or yard required by this Ordinance to be less in dimension than is required for the zoning district and lot in question.

§ 13.3 RESERVED

§ 13.4 UNSUITABLE SITES

No land shall be used, or structure erected, if the Planning and Zoning Commission has determined that the land or structure is unsuitable for such use by reason of potential flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, erosion susceptibility or any other feature or features which may render such use or structure likely to be harmful to the health, safety and general welfare of the community. Should the Planning and Zoning Commission determine that the site is unsuitable for a proposed project, the person or entity proposing such use or structure on land may appeal the Commission's decision to the Board of Adjustment. Based on evidence or additional information submitted by the applicant, the Board of Adjustment thereafter may affirm, modify, or withdraw the determination of unsuitability.

§ 13.5 PERFORMANCE STANDARDS

- A. Every activity, operation, or land use shall comply with the following performance standards regardless of the zone district in which it is located. Provisions for

enforcement of compliance with these performance standards shall be invoked by the Zoning Administrator against any use wherever there is reasonable evidence that performance standards are being violated by such use.

1. Glare and Heat: Any activity producing intense glare or heat shall be performed within a completely enclosed building in such a manner that does not create a nuisance or hazard outside the property lines.
2. Lighting: No light which flashes, revolves, or otherwise resembles a traffic control signal shall be allowed in any area where such light could create a hazard for passing vehicular traffic. All outdoor lighting shall be installed, maintained, and utilized in conformance with Article XV of this Ordinance.
3. Fire and Explosion Hazards: Disposal of waste materials by outdoor incineration on the premises is expressly prohibited. All storage and other activities involving flammable and explosive materials shall be provided with adequate safety devices against hazards of fire or explosion together with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All storage of inflammable or explosive materials shall comply with requirements set forth by the Fire Department or as established by this or other Town codes and ordinances.
4. Vibration: Every use shall be so operated that the ground vibration inherently and recurrently generated is not discernable, without instruments, at any point beyond the site property line.
5. Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution: No emission shall be permitted which can cause health damage to humans, animals, or vegetation.
6. Liquids and Solid Waste: No materials, compounds or chemicals, which can contaminate any water supply, or interfere with the bacterial processes in sewage treatment or otherwise cause emission of elements which are offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public sewer, private sewage disposal system or stream, or into the ground except in accordance with the standards approved by the Arizona Department of Health and/or Environmental Services or such other governmental agency as may have jurisdiction over such activities.
7. Odors: No emission of odorous gases or other odorous matter shall be permitted in such quantities that create a nuisance or hazard beyond the site property line.

§ 13.6 PROJECTIONS INTO REQUIRED YARDS

- A. Except as authorized in this Article, the space in any required yard setback shall be open and unobstructed, except for the ordinary projections of chimney flues, awnings, open outside stairways and balconies, window sills, belt courses, cornices, eaves and other architectural features provided such features shall not project further than three (3) feet into any required side yard or front yard setback, nor more than five (5) feet into any required rear yard setback.
- B. Bay windows, including their cornices and eaves, may project into any required yard not more than three (3) feet provided the sum of such projections on any wall does not exceed one-third (1/3) the length of the main dwelling unit.

- C. Mechanical equipment, such as air conditioners, may be located within a side or rear yard provided that in no case shall the mechanical equipment create an open side yard less than three (3) feet. This open clear area extends from the front of the structure to five (5) feet beyond the rear of the structure. All mechanical equipment shall be screened as much as possible from public view.
- D. Upon compliance with the provisions of §3.3 of this Ordinance, a Conditional Use Permit (CUP) may be granted for the following encroachments within a single residential district provided that no structure shall encroach or overhang any property line or public right-of-way, and all drainage from such structures must flow onto the owner's property:
 - 1. A CUP may authorize a side entry garage to project into a required front yard a distance not to exceed ten (10) feet, but such structure shall not extend into any required side yard.
 - 2. A CUP may authorize an open carport to project into a required front yard, provided all other provisions of this Ordinance are complied with, and such authorization is consistent with the carport structures that have been legally placed upon other residential property on the block on which the applicant's property is located.
- E. Any CUP granted pursuant to subsection (D) of this section shall be at determined upon consideration of other legally existing encroachments of the nature requested in the area where the applicant's property is located.

§ 13.7 HEIGHT LIMITATIONS

- A. Building Height: No building shall be erected, reconstructed, or structurally altered to exceed the height limitations designated for the zone district in which such building or structure is located. Height regulations established elsewhere in this Ordinance shall not apply to the following:
 - 1. In any zone district, church spires, belfries, cupolas and domes, not for human occupancy, monuments, water towers, flagpoles for displaying the flags of the United States or the State of Arizona, noncommercial radio or television antennas, or wireless communication towers approved in accordance with the requirements of Article XVI (Wireless Communications) of this Ordinance.
 - 2. Chimneys in residential districts may be two (2) feet above the roof line of a residential structure, even if the roof line is at the maximum building height.
 - 3. In industrially zoned districts, chimneys, smokestacks, derricks, conveyors, grain elevators, or other similar structures, where the industrial use customarily requires a height greater than otherwise permitted, provided that such structure is located and constructed that, if it should collapse, its reclining length would be contained within the property on which it was constructed.
- B. Height Limitation on Corner Lots:
 - 1. Notwithstanding any other provisions in any zone district, the height of any fences, walls, gateways, ornamental structures, construction, hedges, shrubbery or other landscape plantings on corner lots shall be limited to a height of three (3)

feet above the established elevation of the intersecting streets for a distance of twenty (20) feet along the front and side lot lines and within the triangle formed by the connection of these two lot lines. Within this triangle and in cases where front yards are terraced, the ground elevation of such front yards also shall not exceed three (3) feet above the established elevation of the intersecting streets.

§ 13.8 ACCESSORY BUILDINGS AND USES

- A. Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use has been established. Accessory buildings shall not be used for dwelling purposes except for a guest house as permitted in § 13.15 of this Ordinance.
- B. Detached accessory buildings shall not be located in the required front yard. Such accessory buildings may be permitted in the rear yard but shall not occupy more than thirty (30) percent of the required rear yard, and shall not be nearer than five (5) feet to any street side or rear lot line.
 - 1. Should an accessory building be located partially within the required rear yard and partially within the buildable area, that portion within the buildable area shall be set back from any side or rear lot line one (1) foot for every one (1) foot of height of the accessory building, but at no time shall it be closer to any street side or rear lot line than five (5) feet.
 - 2. Accessory buildings located in the rear half of the lot, at the rear of the principal structure may be located nearer than the otherwise required side yard setback, provided it is set back from a side or rear lot line one (1) foot for every one (1) foot of height of the accessory building, but at no time shall it be closer to any side or rear lot line than five (5) feet.
 - 3. In the case of corner lots, accessory buildings shall maintain side yard setbacks from the street side lot line as required for the main structure in that zone; and when a garage is entered from an alley, it shall not be located nearer than ten (10) feet to the alley.
 - 4. Accessory buildings shall not exceed the height regulations of the applicable zone district within any part of the buildable lot area, and shall not exceed fifteen (15) feet in height in any required rear yard setback area as set forth in subsections 13.8.B.1, 2, and 3. above

§ 13.9 FENCES AND WALLS

- A. No person shall construct, or cause to be constructed or erected, any fence or wall within the Town without first making application for and obtaining a building permit for such construction.
- B. All fences and walls shall be located entirely on the private property of the person constructing, or causing the construction of any such fence or wall unless the owner of the adjoining property agrees, in writing, that such fence or wall may be erected on the division line of the respective properties.
- C. Every fence or wall shall be constructed in a diligent workmanlike manner and of substantial material reasonably suited for the purpose for which the fence or wall is

proposed to be used. Every fence or wall shall be maintained in a condition of reasonable good repair, shall not be allowed to become and remain in a condition of disrepair, damage, or unsightliness, and shall not be allowed to constitute a nuisance, public or private. Any such fence or wall which is, or has become, dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect shall be deemed to be a public nuisance and the Zoning Administrator may commence proper proceedings for the abatement of such nuisance.

- D.** Prohibited fencing includes, but is not limited to rope, string, wire products, including chicken wire, wire fabric and similar woven fabrics, chain netting, cut or broken glass, unapproved corrugated metal panels, galvanized sheet metal, plywood, tires, barbed wire, razor wire, electrical wires or weaved fabrics, or other materials not manufactured specifically as fencing materials.
- E.** In all zone districts, no fence or wall shall be erected or maintained at a height greater than thirty-six (36) inches within the required front yard setback area. However, a fence or wall in the front yard set-back area may be forty-two (42) inches high provided that visibility over thirty-six (36) high is unobstructed. In all other instances the maximum height of any fence or wall may be six (6) feet. These height regulations shall not apply when fences of greater height are required by the Planning and Zoning Commission or Town Council in order to provide adequate screening required by this Ordinance or by conditions of an approved conditional use permit. Utility companies which are regulated by the Arizona Corporation Commission may be allowed increased fence heights due to national or state standards.

§ 13.10 SWIMMING POOLS

- A.** No swimming pool shall be located within the required front yard or any utility easement. The waterline of the pool shall not be closer than five (5) feet to any property line or any building.
- B.** Any swimming pool along with incidental installations, such as pumps and filters shall be completely enclosed from adjoining lots by a protective fence, shall not contain openings that might be used for foothold climbing purposes, and shall not be less than five (5) feet in height. Residential structural walls containing an exterior entry door may be used in meeting pool enclosure requirements.
- C.** Access to such an enclosed area shall be through buildings, or gates that are equipped with a minimum five (5) foot high self-closing and self-latching gate which shall open outward away from the pool with the latch/lock placed at least fifty (50) inches above the underlying ground and with the closing device (spring, pneumatic) at least thirty-six (36) inches above the underlying ground. Any vertical openings at ground level in a pool enclosure fence (e.g. wrought iron) shall be of such size that a spherical object four (4) inches in diameter cannot pass through the openings. Wrought iron or wood barriers or enclosures shall be constructed with at least fifty-four (54) inches between the top surfaces of the horizontal members.
- D.** No heater, filter, pump or other mechanical equipment used in association with any swimming pool shall be located within five (5) feet of any property line. Any such mechanical equipment shall be situated so that no exhaust, vibration, noise, or other nuisance creates a disturbance to the adjoining property.
- E.** In all residential districts, contained bodies of water, either above or below ground level,

with the container being eighteen (18) or more inches in depth and/or wider than eight (8) feet at any point, measured perpendicular to the long axis, shall conform to the location and fencing requirements for swimming pools. Irrigation and storm water retention facilities, and the water features in public parks and golf courses are exempt from the fencing requirements of this section.

- F. Day care centers and home day care centers which have swimming pools. Fish ponds and other contained bodies of water, either above or below ground level must provide a separate enclosure between the day care facility and the body of water. Such barrier shall be a protective fence of not less than five (5) feet in height and of a distance of not less than three (3) feet from the pool to the day care facility. Said protective fence shall adhere to the specifications outlined in paragraph C of this Section.

§ 13.11 RECREATIONAL VEHICLE PARKING, OUTDOOR STORAGE, AND JUNK AUTOMOBILES

- A. With the exception of retail sales displays in a commercial zone district only, outdoor storage shall be screened from public view by a six (6) foot high solid masonry wall or a six (6) foot high view obscuring fence. The presence of hazardous materials to be used or stored on-site is prohibited except as specifically otherwise provided in this Ordinance.
- B. In all residential districts, junk automobiles shall be stored in a completely enclosed building. In commercial and industrial districts, junk automobiles shall be stored in an enclosed building or in an area that is screened from neighboring properties and public view either by a six (6) foot high solid masonry wall or a six (6) foot high view obscuring fence.
- C. A motor home, travel trailer, camping trailer, utility trailer, other trailer, or boat may be stored on a residentially zoned property provided that the owner of the motor home, travel trailer, camping trailer, utility trailer, other trailer, or boat resides on the same property upon which it is being stored. The placement of said motor home, travel trailer, camping trailer, utility trailer, or boat shall only be located behind the front of the primary structure, or the front setback area, whichever is less, on the property upon which it is located and shall not be used as a temporary or permanent residence.
- D. Administrative approval for storage of an RV in front of the home may be granted by the Town Manager, or by the Zoning Administrator upon direction by the Town Manager, for a maximum period of fifteen (15) days. A Temporary Use Permit for storage of an RV in front of the home for a period of time exceeding fifteen (15) days, but less than one-hundred eighty (180) days may be granted by the Planning and Zoning Commission only upon a finding of unusual circumstances that would prevent storage along the side or rear areas of the home, that is within the required setback areas. In addition, the applicant for the permit must demonstrate an inability to store the recreational vehicle off-site. At no time shall the Temporary Use Permit be granted for more than one-hundred eighty (180) days.
- E. Administrative approval for the use of an RV as a residence may be granted by the Town Manager, or by the Zoning Administrator upon direction by the Town Manager, for a maximum period of fifteen (15) days. A Temporary Use Permit for use of an RV as a residence for a period of time exceeding fifteen (15) days, but less than forty-five (45) days may be granted by the Planning and Zoning Commission. However, the forty-five (45) day time limit may be extended when the resident has received a building permit for a permanent house on the same lot upon which the recreational vehicle is to be located.

§ 13.12 DUMPING AND DISPOSAL

- A. No person shall obstruct or reduce the capacity of Queen Creek Wash or any other natural water way within the Town by filling or dumping any earth, stone, or materials therein.
- B. The use of land for the dumping or disposal of hazardous materials, scrap iron, junk, garbage, rubbish, refuse, ashes, slag, or other industrial wastes or byproducts shall be prohibited in every zone district except as specifically otherwise provided in this Ordinance.

§ 13.13 MEDICAL MARIJUANA

- A. Purpose: The purpose of this section is to implement Arizona Revised Statutes, Title 36, Chapter 28.1 entitled “Arizona Medical Marijuana Act.”
- B. Medical Marijuana Dispensaries or Medical Marijuana Cultivation Locations: These dispensaries or cultivation locations shall be subject to the following conditions and limitations and the applicant shall provide the following:
 - 1. The name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation;
 - 2. A copy of the operating procedures adopted in compliance with ARS § 36 2804(B)(1)(c); and
 - 3. A site plan, floor plan, building permits for occupancy change, and a security plan.
- C. Location Restrictions: A medical marijuana dispensary or medical marijuana cultivation facility shall not be located within any Residential Zone District or within the Town Center Zone District.
 - 1. A medical marijuana dispensary or medical marijuana cultivation facility may only be located in C-2, I-1 or I-2 Zone Districts.
 - 2. Medical marijuana dispensaries and medical marijuana cultivation locations shall meet the following minimum separation requirements, measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted, listed below:
 - a. Shall not be located within five hundred (500) feet of the same type of use.
 - b. Shall not be located within one hundred (100) feet of a residentially zoned property.
 - c. Shall not be located within five hundred (500) feet of a preschool, kindergarten, elementary, secondary or high school.
 - d. Shall not be located within one hundred (100) feet of a place of worship, a public park or a public community center.
- D. Size Limitations:

1. The following size limitations shall apply to any medical marijuana dispensary:
 - a. The total floor area of a medical marijuana dispensary shall not exceed two thousand five hundred (2,500) square feet.
 - b. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed five hundred (500) square feet of the total two thousand five hundred (2,500) square foot maximum floor area of a medical marijuana dispensary.
 2. The following size limitations shall apply to any medical marijuana cultivation location associated with a medical marijuana dispensary:
 - a. The total maximum floor area of a medical marijuana cultivation location shall not exceed three thousand (3,000) square feet.
 - b. The secure storage area for the medical marijuana stored at the medical marijuana cultivation location shall not exceed one thousand (1,000) square feet of the three thousand (3,000) square feet total maximum floor area of a medical marijuana cultivation location.
 - c. For a medical marijuana dispensary that also is a medical marijuana cultivation location, the total maximum floor area that may also be used for cultivation and incorporation or processing of the medical marijuana into consumable or edible products inclusive of any secure storage area, shall not exceed three thousand (3,000) square feet. The secure storage area for the medical marijuana stored at a medical marijuana dispensary that also is a cultivation location shall not exceed one thousand five hundred (1,500) square feet.
- E. Hours of Operation: Hours of operation shall not occur earlier than 8:00 a.m., and not later than 8:00 p.m.
- F. Regulations: A medical marijuana dispensary or medical marijuana cultivation location shall be subject to the following:
1. Shall be located in a permanent building and may not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other mobile vehicle.
 2. Shall not be operated as a home occupation anywhere within the Town.
 3. Shall be prohibited from retail sales of medical marijuana.
 4. Shall provide for proper disposal of marijuana remnants or byproducts, and not be placed within the facility's exterior refuse containers.
 5. Shall not be allowed a drive-through service.
 6. Shall not emit dust, fumes, vapors or odors into the environment.
 7. Shall allow off-site delivery to qualified patients.
 8. Shall prohibit consumption of marijuana on the premises.

9. Shall not have outdoor seating areas, but shall have adequate indoor seating to prevent outside loitering.
 10. Display a current Town business license and a State of Arizona tax ID number.
 11. If determined necessary by the Town Manager at any time, and for good cause shown, medical marijuana dispensaries or medical marijuana cultivation locations shall provide a neighborhood security guard patrol for a five hundred (500) foot radius surrounding the medical marijuana dispensary during specified hours of operation.
 12. Have an exterior appearance compatible with existing commercial structures or structures under construction within the immediate neighborhood to insure against blight, deterioration, or substantial diminishment or impairment of property values in the vicinity.
 13. Allow unrestricted access by Town code enforcement officers, Police Department officers or other agents or employees of the Town requesting admission for the purpose of determining compliance with these standards.
 14. Comply with applicable property development and design standards of the Town.
- G.** To insure that the operations of medical marijuana dispensaries are in compliance with Arizona law and to mitigate the adverse secondary effects from operations of dispensaries, the dispensaries shall operate in compliance with the following standards:
1. No doctor shall issue a written certification on-site for medical marijuana.
 2. There shall be no on-site sales of alcohol, tobacco or food, and no on-site consumption of food, alcohol, tobacco or medical marijuana.
 3. Medical marijuana dispensaries shall only dispense medical marijuana to qualified patients and their designated caregivers as defined in Ariz. Rev. Stat. § 36-2801 et. seq.
 4. Only persons with a Registry Identification Card, as defined by A.R.S. 36-2801(14), authorized licensees and authorized employees may be present at a Medical Marijuana Dispensary.
 5. No person under the age of eighteen (18) may be present at a Medical Marijuana Dispensary except with the prior approval of the Chief of Police, or his/her designee, for good cause shown.
 6. Medical marijuana dispensaries shall notify patrons of the following verbally and through posting of a sign in a conspicuous location at the medical marijuana dispensary:
 - a. Use of medical marijuana shall be limited to the patient identified on the doctor's written certification. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.
 - b. Patrons must immediately leave the site and not consume medical marijuana at or near the facility. Medical marijuana dispensary staff shall monitor the site and vicinity to insure compliance.

7. Medical marijuana dispensaries shall not provide marijuana to any individual in an amount not consistent with personal medical use or in violation of state law and regulations related to medical marijuana use.
 8. Any qualified patient under eighteen (18) years of age shall be accompanied by a parent or legal guardian. Except for such parent or legal guardian, no persons other than qualified patients and designated caregivers shall be permitted within a medical marijuana dispensary premises.
 9. Medical marijuana dispensaries shall provide law enforcement and all interested neighbors with the name and phone number of an on-site community relations staff person to notify if there are operational problems with the establishment.
- H.** Security Plan Requirements: A Medical Marijuana Dispensary and Medical Marijuana Cultivation facility shall submit a security plan to the town containing the following information:
1. Proof that the “Nonprofit Medical Marijuana dispensary agent,” as that term is defined in A.R.S. § 26-2801, is at least twenty-one (21) years of age and has satisfied all requirements of the Arizona Department of Health Services to act as a medical marijuana agent.
 2. Proof that all cultivations and storage of medical marijuana will take place in an enclosed, locked facility equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to state and local law.
 3. A floor plan that details the security measures required by Arizona law including an on-site alarm system and single secure entrance.
 4. Additional protections, if any, against medical marijuana diversion and theft.
 5. Provide and keep up to date a list of the names and contact information for all persons who are authorized to access the dispensary and offsite cultivation site.
- I.** A Medical Marijuana Cultivation location not associated with an Arizona Medical Marijuana Dispensary is prohibited. Only one Medical Marijuana Cultivation location shall be permitted for the single Arizona Medical Marijuana Dispensary with which it is associated.
- J.** State Compliance: The medical Marijuana Dispensary shall comply with all the restrictions and requirements of the Arizona Medical Marijuana Act, A.R.S. § 36-2801 through 2818, together with compliance with any regulations adopted by the Arizona Department of Health Services pursuant to same, and said regulations are incorporated herein by this reference as if set forth in full.
- K.** Penalties: Any person found violating any provisions of this ordinance (chapter) may be found guilty of a class one misdemeanor and may be punished by a fine of up to \$2,500.00 or by imprisonment for up to six (6) months in jail, or by both such fine and imprisonment. Each day a violation continues shall constitute a separate offense punishable as hereinabove provided.

§ 13.14 **SOLAR SITING**

A. Purpose & Intent:

1. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority of the Town's current and long-term sustainability agenda.
3. This ordinance aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

B. Definitions:

Accessory Structure: A structure, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, and is located on the same lot or premises as the principal building.

Alternative Energy Systems: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

Building-Integrated Photovoltaic (BIPV) Systems: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade, and which does not alter the relief of the roof.

Collective Solar: Solar installations owned collectively through subdivision homeowner associations, "adopt-a-solar-panel" programs, or other similar arrangements.

Expedited Review: The grant of a priority status to an application that results in the review of the application ahead of the applications filed prior thereto, including applications which may be currently under review by the Town.

Flush Mounted Solar Panel: Photovoltaic panels and tiles that are installed flush to the surface of a roof where they cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

Net-Metering: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

Permit Granting Authority: The Town of Superior is charged with granting permits for the operation of solar energy systems.

Photovoltaic (PV) Systems: A solar energy system that produces electricity by the use of

semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

Qualified Solar Installer: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations, and has received safety training on the hazards involved.

Rooftop or Building-Mounted System: A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solar Access: Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Collector: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Easement: A recorded easement which secures the right to receive sunlight across real property for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment/System: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

Solar Panel: A device for the direct conversion of solar energy into electricity

Solar Power Fast-Track Program: A program to expedite all applications for commercial and residential solar panel installation to encourage the use of reliable and clean renewable energy.

Solar Storage Battery: A device that stores energy from the sun and makes it available in an electrical form.

Solar-Thermal Systems: Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

C. Applicability:

1. The requirements of this Ordinance shall apply to all energy systems (residential, commercial, and industrial) modified or installed after the effective date of this Ordinance.
2. Solar energy systems for which a valid permit has been properly issued, or for which installation has commenced prior to the effective date of this article, shall not be required to meet the requirements of this Ordinance.
3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.

4. Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net-metering” arrangement in accordance with state or federal laws.

D. Permitting:

1. No Small Scale solar energy system or device shall be installed or operated in the Town except in compliance with the provisions of this article.
2. To the extent practicable, and in accordance with Town law, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of Town Codes.
3. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town subject to the following conditions:
 - a. Building permits shall be required for installation of all rooftop and building-mounted solar collectors, except for Flush-Mounted Photovoltaic Panels.
 - b. Any height limitations of the Town Code shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - c. Placement of solar collectors on flat roofs shall be allowed provided that panels do not extend horizontally past the roofline.
 - d. Rooftop and building-mounted solar collectors in the TC zone district shall be permitted if they are not visible from the street or adjacent properties, otherwise a conditional use permit will be required.
4. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted outright in all zoning districts, except in the TC Zone District where a conditional use permit is required.
5. Ground-Mounted and Free Standing Solar Collectors: Ground-mounted and free standing solar collectors are permitted as accessory structures in all zone districts of the Town, except for the TC Zone District which requires a conditional use permit, subject to the following conditions:
 - a. Building permits are required for the installation of all ground-mounted solar collectors.
 - b. The location of the solar collector meets all setback requirements for accessory structures in the zone district in which it is located.
 - c. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of adjacent properties, while still providing adequate solar access for

collectors.

6. Solar-Thermal Systems: Solar-thermal systems are permitted in all zone districts, except for the TC Zone District which requires a conditional use permit, upon approval of a building permit.
7. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to the following:
 - a. Weight load.
 - b. Wind resistance.
 - c. Ingress or egress in the event of fire or other emergency.
8. Installations in a designated historic district shall require a certificate of appropriateness from the Town unless such installations are not visible from the street.

E. Safety

1. All solar collector installations must be performed by a qualified solar installer.
2. Prior to operation, electrical connections must be inspected by the Town's Building Inspector.
3. Any connection to the public utility grid must be inspected by the appropriate public utility.
4. Solar energy systems shall be maintained in good working order.
5. Rooftop and building-mounted solar collectors shall meet the Town's Uniform Building Code and the Town Fire Department requirements.
6. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the Town's International Building Code when in use, and when no longer used shall be disposed of in accordance with the laws and regulations of all applicable laws and regulations.
7. If a solar collector ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than ninety (90) days after the end of the twelve (12) month period.

F. Appeals:

1. If an individual is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the provisions of Article III, § 3.7 (Appeals) of this Ordinance.
2. If a building permit for a solar energy device is denied because of a conflict with other provisions of the Municipal Code, the applicant may seek relief through

Article III, § 3.7 (Appeals) of this Ordinance.

§ 13.15 SECOND DWELLING UNITS

- A. Purpose and Intent.** This section is intended to ensure that second dwelling units located in single family residential zone districts do not adversely impact adjacent residential parcels or the surrounding neighborhood, are developed in a manner which protects the integrity of the residential district, and provides for needed housing opportunities for owners of eligible parcels.
- B. Applicability.** The provisions of this Section shall apply to all second dwelling units in addition to the provisions of the zone district in which it is located.
- C. Definitions.** As used in this Chapter, the following terms shall mean:
1. Living Area: The interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure.
 2. Second Unit: An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.
- D. Development Standards.** The following standards shall apply to second dwelling units:
1. The property shall be in a single family residentially zoned district.
 2. The lot must contain a primary dwelling unit either existing or proposed to be constructed concurrently with the second unit.
 3. The maximum allowable lot coverage shall not be exceeded.
 4. The maximum building height for a second dwelling unit shall be one (1) story, not to exceed eighteen (18) feet. No second dwelling unit shall be higher than the main dwelling unit as measured from the median ground elevation of the site.
 5. The second dwelling unit shall be subject to the minimum required front, side, and rear yard setbacks of the zone district in which the property is located.
 6. The second dwelling unit may be attached to or detached from, the primary residence, but shall be architecturally compatible with the main dwelling and the surrounding neighborhood.
 7. The second dwelling unit shall have an adequate water supply and sewer service.
 8. The entrance to an attached second dwelling unit shall be separate from the entrance to the primary dwelling unit.
 9. Second dwelling units shall be subject to all development fees including, but not limited to, public facilities impact fees, park fees and assessment districts, where so applicable.
 10. The floor area of the second dwelling unit shall not exceed fifty (50) percent of the floor area of the primary single family residence on the property unless the

primary single family residence is less than eight hundred (800) square feet.

- 11.** Off-street parking space shall be provided for the second dwelling unit in compliance with the provisions of Article XIV (Parking Provisions) of this Code.

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ARTICLE XIV – PARKING PROVISIONS

§ 14.0 PURPOSE

The purpose of this Article is to establish minimum standards for the provisions of adequate off-street parking, loading, and maneuvering spaces for the uses permitted by this Ordinance in a manner which is safe, efficient, convenient and visually attractive. These regulations shall apply to new construction and expansion of, or changes to, existing uses permitted by this Ordinance. The regulations set forth in this Article shall supplement the District Regulations set forth elsewhere in this Ordinance.

§ 14.1 GENERAL REGULATIONS

- A. All required parking, loading spaces, and maneuvering areas shall be provided on the same parcel or lot as the principal structure wherever possible. A contiguous lot may be used for parking purposes if incorporated into the development site and properly zoned for parking purposes.
- B. All vehicular egress from parking lots to public rights-of-way shall be by forward motion only, except in the case of a single residence fronting on a local street, or as set forth in § 14.6 of this Article.
- C. Parking spaces shall not be located in the front yard setback, or a side yard setback when adjacent to a residential zone district.
- D. No part of any vehicle may overhang into a public sidewalk or within five (5) feet of a street curb where no sidewalk exists.
- E. Tandem arrangement of required parking spaces is prohibited, except as provided in § 14.6 of this Article.
- F. Parking of commercial rated vehicles in a residential zone may be permitted. The keeping or storage of commercial rated vehicles in a residential zone district is prohibited.

§ 14.2 IMPROVEMENTS

- A. Required parking and loading spaces, maneuvering areas, driveways, and fire lanes shall be paved with asphalt, concrete, paving stones or masonry to a sufficient thickness to withstand repeated vehicular traffic, except in single residence uses.
- B. All required off-street parking spaces shall be connected with a public street or alley by a paved driveway not less than twenty (20) feet in length within the property line, except for single residence uses and for uses within the Town Center Zone District as set forth in § 14.6 of this Article.
- C. All off-street parking lots shall be screened from street view and landscaped in accordance with the regulations of this Ordinance for the specific zoning district of the use and this article.
- D. A minimum six (6) inch vertical or rolled concrete curb shall be required between any parking area and landscape area to protect the landscaped area and control vehicular circulation.

§ 14.3 **REQUIRED PARKING SPACES BY USE TYPE**

- A. The number of parking spaces required to be provided for uses permitted in this Ordinance are specified in the following Table 8:

TABLE 8 - REQUIRED PARKING SPACES

A. RESIDENTIAL USES		
LAND USE	VEHICLE PARKING	SPECIAL PARKING
Single family detached residences	2 spaces per dwelling	N/A
<u>Multiple Family</u> Studio 1 bedroom unit 2 bedroom unit Town homes and condominiums	1 space per unit 1.5 spaces per unit 2 spaces per unit	Note: 1 visitor space per 10 units. One space per unit shall be covered and assigned to each separate unit
B. INSTITUTIONAL USES		
LAND USE	VEHICLE PARKING	SPECIAL PARKING
Churches, main assembly fixed seating) Main assembly (without fixed seating) Classrooms and other	1 space per 4 seats 1 space per 100 sq. ft. of UFA 1 space per 300 sq. ft.	1 bicycle per 20 vehicle spaces
Hospitals	1 space per bed plus 1 space per physician	1 bicycle per 20 vehicle spaces
Elementary schools & junior high schools	1 space per classroom; plus 1 space per 300 sq. ft. of UFA	1 bicycle per 10 students
High schools, trade schools, and colleges	1 space per each employee plus 1 space per 6 additional students	1 bicycle per 20 students
C. COMMERCIAL USES		
LAND USE	VEHICLE PARKING	SPECIAL PARKING
<u>Commercial Amusement - Outdoors:</u> Golf courses Miniature golf courses Driving ranges Batting cages Stadiums	2 spaces per hole plus 1 space per 200 sq. ft. for the clubhouse UFA 1 space per 200 sq. ft. 1 space per each tee space 1 space per cage 1 space per 4 seats	1 bicycle per golf hole 1 bicycle per batting cage
<u>Commercial Amusement -</u> Amusement center/arcades Skating rinks Dance clubs Theaters Bowling	1 space per 100 sq. ft. UFA 1 space per 200 sq. ft. UFA 1 space per 200 sq. ft. UFA 1 space per 6 seats 4 spaces per	1 bicycle per 10 vehicle spaces 1 bicycle per 10 vehicle spaces 1 bicycle per 20 vehicle spaces 1 bicycle per 20 vehicle spaces 1 bicycle per lane 1 bicycle per table

C. COMMERCIAL USES (cont'd)		
LAND USE	VEHICLE PARKING	SPECIAL PARKING
Parks (public or private)	30 spaces per athletic field	1 bicycle per 10 vehicle spaces
Health clubs, gymnasiums	1 space per 100 sq. ft. of UFA	1 bicycle per 20 vehicle spaces 1 motorcycle per 10 vehicles
Medical & dental offices, clinics	1 space per 200 sq. ft. of UFA plus 1 space per 2 employees	1 bicycle per 20 vehicle spaces 1 motorcycle per 10 vehicles
General, professional & civic offices	1 space per 250 sq. ft. of UFA	1 motorcycle per 10 vehicles
Retail sales, personal services, banks, grocery stores, convenience stores	1 space per 250 sq. ft. of UFA	1 bicycle per 20 vehicle spaces 1 motorcycle per 10 vehicles 1 large vehicle per 10 vehicles
Hotels, motels, bed and breakfast	1 space per room plus ancillary use requirements	1 motorcycle per 20 vehicles; 1 large vehicle per 10 vehicles
Bars and cocktail lounges	1 space per 75 sq. ft. of UFA	1 motorcycle per 10 vehicles
Restaurants	1 space per 50 sq. ft. of UFA	1 bicycle per 20 vehicle spaces 1 motorcycle per 10 vehicles 1 large vehicle per 10 vehicles
Funeral homes	1 space per 4 seats	N/A
Automobile repair	1 space per 100 sq. ft. of UFA plus 1 space per employee	1 motorcycle per 10 vehicles
<u>Outdoor Sales:</u> Plant nursery, building supplies, RV and boat sales, and automobile sales	1 space per 375 sq. ft. of UFA display plus 1 space per employee	N/A
Swap meets, farmers markets	1 space per 100 sq. ft. of UFA sales area	1 bicycle per 20 vehicle spaces 1 motorcycle per 10 vehicles
D. INDUSTRIAL USES		
LAND USE	VEHICLE PARKING	SPECIAL PARKING
Wholesale sales, warehouse and freight movement	1 space per 800 sq. ft. of UFA	1 motorcycle per 20 vehicles
Waste related uses	1 space per employee	1 motorcycle per 20 vehicles
Mini-warehouse/self-storage facility	4 spaces plus 2 spaces for manager's quarters	N/A

* In Table 8 above, UFA means usable floor area for the primary use of the building, excluding bathrooms, storage area, hallways, and so on.

- B.** In calculating the total number of required off-street parking spaces, fractional amounts shall be rounded up to the nearest whole number if the fraction is 0.5 or greater.
- C.** The number of parking spaces required for uses not listed shall be determined by the Zoning Administrator and approved through the site plan process.
- D.** In the case of mixed uses, the total requirement for off-street parking spaces shall be

the sum of the requirements of the various uses computed separately. Cumulative parking space requirements for mixed-use occupancies may be reduced where it can be demonstrated that the peak requirements of the occupancies occur at different times.

- E. Required parking areas should be located to the rear or side of the building. Covered parking spaces shall be provided for each residential unit of multiple residential projects.

§ 14.4 PARKING SPACE AND MANEUVERING DIMENSIONS

- A. Large Vehicle Parking: Certain uses may be required to install large customer parking spaces for trucks, hauling equipment, and recreational vehicles. Minimum dimension standards for large vehicles shall be twelve (12) feet wide by thirty-five (35) feet long. Said spaces shall be clearly marked for customer use.
- B. Disabled Parking: All off-street parking areas, other than for single residential uses shall include reserved spaces for use by disabled persons. Disabled parking, in accordance with the Americans with Disability Act (ADA) of 1990, shall be provided at a rate of two (2) percent of the total required vehicular parking spaces. Minimum dimension standards for disabled parking shall be as follows:
 - 1. Single Space: Sixteen (16) feet wide by twenty (20) feet long and shall be prominently striped eleven (11) feet width for each space plus a five (5) foot access aisle between spaces.
 - 2. Double Space: Twenty-seven (27) feet wide by twenty (20) feet long and shall be prominently striped eleven (11) feet width for each space plus a five (5) foot access aisle between spaces.
- C. Standard Parking: The standard parking space shall be nine (9) feet wide by eighteen (18) feet long unless otherwise specified by this Ordinance.
- D. Compact Parking: Compact parking spaces shall be eight (8) feet wide by fifteen (15) feet long.
- E. Loading Space: There shall be provided on the same lot with each commercial and industrial building or structure adequate space for off-street loading, unloading and the maneuvering of commercial vehicles. There shall be no loading or unloading of commercial vehicles on the public street. Off-street maneuvering space shall be provided so that no backing onto or from a public street is required. The loading space shall be twelve (12) feet wide by forty-five (45) feet long and shall be a minimum of fourteen (14) feet in height.
- F. Exceptions: Off-street loading requirements, as specified in this Article may be modified by the Town Council for properties located within the Town Center Zone District.
- G. Hours of Operation: On-site operations shall prohibit non-emergency loading and unloading of materials, exterior maintenance, refuse removal and other activities which generate noise beyond the property boundaries between the hours of 7:00 p.m. and 7:00 a.m. daily.
- H. No loading docks, service bays, or service windows shall be visible from an arterial or collector roadway.

§ 14.5 PARKING LOT LANDSCAPE REQUIREMENTS

- A. Amount Required: In parking lots, at least ten (10) percent of the interior parking area, exclusive of perimeter landscaping and frontage landscaping. For every ten (10) required parking spaces a minimum of one (1) tree and two (2) shrubs shall be provided within the interior of the parking area. Trees located in the interior of the parking area shall have a clear trunk of at least five (5) feet and shrubs located in the interior of the parking area a maximum height of three (3) feet for adequate visibility.
- B. Location: Landscape areas shall be located and designed in such a manner as to break up the expanse of paving, better define parking circulation, and provide shade and comfort. The required landscaping should be located in protected areas such as along walkways, in center islands, at the ends of bays, or between parking stalls. Landscape areas shall contain a minimum of twenty-five (25) square feet and shall have a minimum width of five (5) feet.
- C. Irrigation of Parking Lot Landscaping: All right-of-way street frontage, perimeter and interior parking area landscaping shall be provided with a pressurized, underground irrigation system.
- D. Maintenance of Landscaping: The maintenance of all required landscaping, whether located on the property or within the adjoining right-of-way frontage shall be the responsibility of the property owner.

§ 14.6 ADJUSTMENTS TO PARKING REQUIREMENTS

- A. Modified Parking Requirements in the Town Center Zone District:
 - 1. Modified parking requirements have been developed for use in the Town Center Zone District as an incentive to preserve and maintain existing historic structures and to encourage new structures that are compatible with the historic character of the downtown area. The Planning and Zoning Commission (Commission) shall have the authority to approve a request for a parking adjustment subject to the provisions of this section, the decision of which may be appealed to the Board of Adjustment as provided in § 3.7 of this Ordinance.
 - 2. For land uses located in the Town Center Zone District, off-street parking requirements may be modified by the Commission by utilizing any combination of the following techniques.
 - a. A reduction of the required number of parking spaces by fifty (50) percent.
 - b. The crediting of on-street parking spaces which are adjacent to the frontage of the designated structure/site towards the total number of required off-street parking spaces required for the use, provided that a determination is made that such on-street parking will remain available for public parking during business hours in the future.
 - c. Allow the use of off-site parking in parking lots that are located within four hundred (400) feet of the structure where the applicant has provided adequate incentives for the use of such parking lots.

- d. Allow vehicles to back out onto alleys or streets where it is determined that such backing out of vehicles can be done safely.
- e. Allow fifty (50) percent of a parking lot, located on the site of the structure/use to be compact spaces.
- f. Allow tandem parking where it is determined that such parking would be effectively and safely used.
- g. Provide for in-lieu fees where such fees are applied to an identified parking district or other similar mechanism that will contribute to the development of public parking within the general area.

3. Findings for Approval: The Commission shall find any of the following:

- a. The proposed parking modification and use of the structure is necessary or desirable for the greater development of the community, is in harmony with the various elements and objectives of the General Plan, and is not detrimental to existing uses or to uses specifically permitted in the Town Center Zone District.
- b. That approving the proposed parking adjustment will significantly improve the possibility that structures will be preserved and maintained.
- c. That the proposed parking scheme will function safely.
- d. That the approval of the parking adjustment will not harm the integrity of the structure of the surrounding neighborhood.

4. Off-street parking and loading requirements, as specified in this Article, may be further modified by the Commission for properties located within the Town Center Zone District when it has been determined that every effort has been made to comply with the provisions of this Article, specifically § 4.6 and § 4.7, and the Commission determines that it is in the best interest of the Town to further wave or eliminate the parking requirements set forth in this Article.

5. As a condition of approval to the granting of a reduction in required parking, the Commission may require the granting of reciprocal access and parking agreements with surrounding properties, recordation of conditions, covenants, and restrictions, or other legal instruments to assure the permanent continuation of the circumstances under which parking requirement reductions were granted.

§ 4.7 SHARED PARKING

- A. A reduction of the minimum parking requirements for individual uses may be granted by the Planning and Zoning Commission where joint use of parking facilities or other factors will mitigate peak parking demand.
- B. Requests for parking reductions resulting from joint usage shall be supported by information that generally follows the format described below.
 - 1. Initial project review involves quantification of proposed land uses and anticipated functional relationships between the parking needs of different land

uses. The initial review will consist of data gathering regarding general location of parking facilities, surrounding land uses, predicted pedestrian patterns, and similar variables which affect parking needs.

2. Adjustments for shared parking includes calculating the number of off-street parking spaces required for each land use within the area proposed for joint parking based upon requirements of this Article

C. In granting a parking reduction for shared use of parking facilities, the Planning and Zoning Commission shall make one or more of the following findings.

1. The report justifies the requested parking reduction based upon the presence of two (2) or more adjacent land uses which, because of their substantially different operating hours or difference peak parking characteristics, will allow joint use of the same parking facilities.
2. The report finds that the use otherwise adheres to the parking standards in this Article.
3. The report finds that the clustering of different land uses is such that a reduced number of parking spaces can serve multiple trip purposes to the area in question.

D. As a condition of approval to the granting of shared parking, the Planning and Zoning Commission may require the granting of reciprocal access and parking agreements with surrounding properties, recordation of conditions, covenants, and restrictions, or creation of other legal instruments to assure the permanent continuation of the circumstances under which parking requirement reductions were granted.

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ARTICLE XV – OUTDOOR LIGHTING PROVISIONS

§ 15.0 PURPOSE

The purpose of this Article is to control artificial illuminating devices emitting rays into the night sky which have a detrimental effect on the rural atmosphere, astronomical observations, or which would otherwise be offensive to neighboring and nearby properties.

§ 15.1 CONFORMANCE WITH APPLICABLE CODES

- A. Outdoor artificial illuminating devices shall be installed and utilized in conformance with the provisions of this section, and all other ordinances or building codes of the Town.
- B. Where any provisions of the Arizona State Statutes, or any federal law, or any companion ordinance conflicts with the requirements of these outdoor lighting provisions, the most restrictive shall govern.
- C. The provisions of this Article are not intended to prevent the use of any material or method of installation not specifically prescribed by this Article, provided any such alternate has been approved in writing by the Zoning Administrator. The Zoning Administrator shall consider any state of the art technology which is consistent with the intent of the Article as new lighting technology develops which is useful in reducing light above the horizontal plane.

§ 15.2 DEFINITIONS

For the purpose of this Article the following terms are defined as follows:

- A. ***Filtered:*** Outdoor light fixtures whose transmission is less than five (5) percent total emergent flux at wavelengths less than thirty-nine hundred (3900) angstroms. Total emergent flux is defined as that between three-thousand (3000) and seven-thousand (7000) angstrom units.
- B. ***Fossil Fuel Light:*** Light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
- C. ***Fully Shielded:*** Fixtures shall be shielded so that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.
- D. ***Individual:*** Any private individual, tenant, lessee, owner, or any commercial entity including, but not limited to, companies, partnerships, joint ventures or corporations.
- E. ***Installed:*** The initial installation of outdoor light fixtures, defined herein, on or after the effective date of this Article.
- F. ***Luminary:*** A body that gives light.
- G. ***Outdoor Light Fixtures:*** Outdoor artificial illuminating devices, outdoor fixtures, lamps

and other devices permanent or portable, used for illumination or advertisement purposes. Such devices shall include, but are not limited to search, spot, or floodlights for:

1. Buildings and structures.
2. Recreational areas.
3. Parking lot lighting.
4. Landscape lighting.
5. Billboards and other signage (advertising or others).
6. Street lighting.
7. Building overhangs and open canopies.
8. Product display area lighting.

- H. ***Partially Shielded:*** Means the fixture shall be shielded so that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light above the horizontal plane.

§ 15.3 **GENERAL REQUIREMENTS**

- A. **Shielding:** All outdoor light fixtures, except those exempt from this Article, shall be fully or partially shielded as required in the following Table 9 of this Section. Light sources that must be shielded shall be shielded in a manner that the bulb or light source from the fixture is not visible from an adjoining property or from the street view.
- B. **Filtration:** All outdoor light fixtures, except those exempt from this Article, shall be filtered as required in the following Table 9 of this section.
- C. **Building and Structures:** Overhead lighting used to light building overhangs and open canopies shall be fully recessed within the overhang or canopy. The use of light bars shall be minimized and the light directed downward. Within a fifteen (15) foot radius of the entry door there shall be lighting. Security lighting mounted on the building shall be shielded in accordance with Table 9 and shall not exceed a height of fifteen (15) feet.

TABLE 9 - REQUIREMENTS FOR SHIELDING AND FILTERING

FIXTURE LAMP TYPE	SHIELDING	FILTERING ¹
Low Pressure Sodium ²	Fully	None
High Pressure Sodium	Fully	None
Metal Halide	Fully	Yes
Fluorescent	Fully ³	Yes ⁴
Incandescent greater than 75W	Fully	None
Incandescent less than 75W	Partially	None
Fossil Fuel	None	None
Glass Tubes filled with Neon, Argon, Krypton	None	None
Other Lamp Types	As approved by the Zoning Administrator	

FOOTNOTES:

1. Glass, acrylic, or translucent enclosures satisfy these filter requirements except that quartz glass does not meet this requirement.
 2. This is the preferred lamp type to minimize undesirable light into the night sky affecting astronomical observations.
 3. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated by fluorescent light from within do not require shielding. For such signs, total lamp wattage per sign shall be less than seventy-five (75) watts except for signs using dark backgrounds with light lettering or symbols.
 4. Warm White and Natural Lamps are preferred to minimize detrimental effects.
 5. For the purpose of this Article, quartz lamps shall not be considered an incandescent light source.
- D. Parking Lot Lighting:** The use of fixtures with excessive candle power shall be avoided.
1. The minimum lighting intensity in parking areas should be 1.0 foot-candle with the level of illumination as measured at the property line not to exceed 0.25 foot-candle.
 2. The maximum height of parking lot lighting standards (poles) shall be fifteen (15) feet. Lighting standards located near buildings and adjacent to sidewalks shall not exceed twelve (12) feet in height. This provision does not apply to lighting on buildings or to lighting along Hwy U.S. 60.
 3. High activity areas such as near building entrances and pedestrian corridors may provide greater lighting intensity as may be approved by the Town.
- E. Outdoor Advertising Signs:** All exterior lighting fixtures used to illuminate an outdoor advertising sign or billboard shall be mounted on the top of the sign structure and directed downward.
- F. Outdoor or Exterior Lighting:** All outdoor or exterior lighting shall be directed down. No intermittent, flickering or flashing lights shall be permitted.
- G. Low Pressure Sodium Lamps:** Low pressure sodium lamps are the preferred light source for minimizing adverse effects on astronomical observations.

§ 15.4 PROHIBITIONS

- A. Searchlights:** The operation of searchlights for advertising purposes is prohibited.
- B. Recreational Facilities:** No outdoor recreational facility, public or private, shall be illuminated by non-conforming means after 11:00 P.M. except to conclude a specific recreational, sporting or other activity that began prior to 10:00 P.M.

- C. Exterior Lighting: All lighting for off-street parking or loading areas, external illumination of the building or signs, or any product display lighting shall be directed away from and shielded from any residential property, and shall not detract from driver visibility on adjacent streets.
- D. Mercury Vapor and Quartz-Halogen: The installation of mercury vapor or quartz halogen fixtures is prohibited. Existing mercury vapor and quartz halogen fixtures shall either be replaced or equipped with a filter and fully shielded.
- E. Signage: Bottom mounted outdoor light sources for any advertising signlighting.

§ 15.5 EXEMPTIONS

- A. Nonconforming Fixtures: All outdoor light fixtures existing and fully installed prior to the effective date of this Ordinance may remain "nonconforming" indefinitely, provided however, that no change in use, replacement, structural alteration, or restoration (after abandonment of outdoor light fixtures) shall be made unless it thereafter conforms to the provisions of this Article.
- B. Fossil Fuel Light: Lighting produced by the combustion of natural gas or other utility-type fossil fuels is exempt. This does not exempt lighting produced indirectly from combustion of natural gas or other utility-type fossil fuels, such as the use of electricity to produce lighting.
- C. Federal and State Facilities: Those facilities and lands owned, operated or protected by the U.S. Federal Government of the State are exempted by law from all requirements of this Article. Voluntary compliance with the intent of this Article at those facilities is encouraged.

§ 15.6 PROCEDURES FOR COMPLIANCE

- A. Application:
 - 1. Any individual applying for a building or use permit under the Town regulations intending to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this Article.
 - 2. All other individuals intending to install outdoor lighting fixtures shall submit an application to the Building Inspector providing evidence that the proposed work will comply with this Article. Landscape lighting or decorative lighting consisting of light fixtures of incandescent bulbs under twenty-five (25) watts is exempt from the requirements of this paragraph.
- B. Contents of Application: The application shall contain, but shall not necessarily be limited to, the following information:
 - 1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices, etc.
 - 2. Manufacturer's catalog cut sheets and drawings which describe the illuminating devices, fixtures, lamps, supports, and other devices, etc.
- C. Issuance of Permit: Upon compliance with the requirements of this Article, the Building

Inspector shall issue a permit for installation of the outdoor lighting fixtures, to be installed per the approved application. In the event the application is part of a building permit application, the issuance of the building permit will be granted if the applicant is in compliance with this Article as well as other pertinent laws and regulations.

- D.** Amendment to Permit: Should the applicant desire to substitute outdoor light fixtures or lamps, after a permit has been issued the applicant must submit all changes to the Building Inspector for approval, as well as adequate information to assure compliance with this Article.

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ARTICLE XVI – WIRELESS COMMUNICATIONS

§ 16.0 PURPOSE

The purpose of this Article is to establish general guidelines and a review procedure for the setting of wireless communications towers and antennas.

§ 16.1 INTENT

The intent of these provisions is to protect neighborhoods, protect scenic and environmentally sensitive areas, prompt co-location, prompt location on existing structures, and improve the aesthetics of the facilities through careful design and innovative camouflaging techniques.

§ 16.2 CONFORMANCE WITH APPLICABLE CODES

All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, or any other agency of the state or federal government with the authority to regulate towers and antennas, and the provisions of this Article. The following provisions are not intended to prevent the use of any material or method of installation not specifically prescribed by this Article, provided any such alternate has been approved in writing by the Zoning Administrator. The Zoning Administrator shall consider any state of the art technology, which is consistent with the intent of the Ordinance, as new wireless communication technology develops.

§ 16.3 DEFINITIONS

For the purpose of this Article the following terms shall have the following definitions:

Alternative Tower Structure: Any clock or bell towers, church steeples, chimneys or stacks, elevators, light poles, power poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

1. ***Whip Antenna*** – A long and thin device that transmits and/or receives radio frequency signals in a 360 degree radial pattern.
2. ***Panel Antenna*** - A relatively flat rectangular device that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.
3. ***Dish Antenna*** - A bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

Building Mounted Antenna: Any antenna that is attached to the walls of, or integrated into buildings or parapet-walls.

Co-location: The use of a single mount and/or site by more than one personal wireless service.

Equipment Cabinet: An enclosed shed or box at the base of or near a PWSF mount within which are housed, among other things, batteries and electrical equipment (hereinafter referred to as "equipment"). This equipment is connected to the antenna by cable.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Height: The height of monopoles and towers shall be measured from natural grade to the top of all appurtenances. The height of rooftop mounted communication equipment shall be measured from the roof elevation to the top of all appurtenances. The height of building mounted communication equipment shall be from the top of the equipment to natural grade.

Monopole: A facility used exclusively for PWSF mounts and is self- supporting with a single shaft of steel, concrete or wood.

Mount: The ground or the structure to which a PWSF is attached.

Personal Wireless Service Facility (PWSF): A facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, and any amendments thereto. Personal wireless service facilities are composed of two (2) or more of the following components:

1. Antenna
2. Mount
3. Equipment Cabinet
4. Wall or Security Barrier

Site: The physical location occupied by a single tower and its accompanying ground-mounted or roof-mounted equipment.

Tower: Any structure which is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, and digital and/or cellular telephone towers, alternative tower structures, and the like. The term also includes the structure and any support thereto. Lattice-type structures or structures which require the use of guy wires are discouraged.

§ 16.4 GENERAL REQUIREMENTS

- A. Antennas and towers may be considered as either a principal or an accessory use. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such a lot.
- B. For purposes of determining whether the installation of a tower or antenna complies with zoning regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. The setback of the communication equipment and/or the accessory structures shall meet the building setbacks for the zone district in which it is located. Towers shall be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line. Facilities that are located on street lights, traffic signals poles,

sixty-nine (69) kilovolt or above and existing electrical utility poles are exempt from setback requirements.

- D. Towers shall be painted or treated to minimize the contrast of the tower against the horizon. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding development.
- E. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be painted or treated such that they match the color and/or texture of the supporting structure.
- F. Rooftop mounted equipment shall be screened from off-site views to the extent possible by solid screen walls or the building parapet. Screening shall be integrated into and architecturally compatible with the building design.
- G. Building mounted antennas shall be mounted a minimum of one (1) foot below the top of the building wall, shall not be extended more than twelve (12) inches from the face of the building, and shall be treated or painted to match the color and texture of the building.
- H. Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height and shall be non-climbable. Above ground equipment cabinets shall be completely screened from view by a compatible solid wall or view obscuring fence.
- I. All equipment shall be unmanned. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- J. Any exterior lighting shall be within the walled area and shall be mounted on poles or on the building wall below the height of the screening fence or wall. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- K. No signs shall be allowed on an antenna, on a tower or on any portion of the premises leased for wireless communication use except that each PWSF shall be identified by a permanently installed plaque or marker, no larger than four (4) inches by six (6) inches, clearly identifying the provider's name, address and emergency phone number.
- L. All new towers or poles over forty (40) feet in height shall allow for co-location by other wireless communications providers.

§ 16.5 PERMITTED USES

- A. Wireless communication towers and antennas located on property owned, leased, or otherwise controlled by the Town shall require review and approval by the Zoning Administrator provided a license or lease authorizing such antenna or tower has been approved by the Planning and Zoning Commission. No such license or lease shall be issued for a tower located within three hundred (300) feet of any residentially zoned property until a public hearing has been held at a regular or special Planning and Zoning

Commission meeting. No such license or lease shall be granted for a tower or antenna located within the "OSC" or "TC" zone districts.

- B. Upon compliance with the requirements of this article and stipulations of the Conditional Use Permit, if applicable, the Building Inspector shall issue a permit for installation per the approved application.

§ 16.6 CONDITIONAL USE PERMITS

The following provisions shall govern the issuance of Conditional Use Permits for towers and antennas by the Planning and Zoning Commission:

- A. Wireless communication towers and antennas proposed to be located on property that is not owned, leased, or otherwise controlled by the Town shall require a Conditional Use Permit, in accordance with § 3.3 of this Ordinance.
- B. In granting a Conditional Use Permit the Planning and Zoning Commission may impose conditions to the extent such conditions are necessary to minimize adverse effects of the proposed tower or antenna on adjoining properties, and to blend with other similar vertical objects and not be intrusive in its setting or obtrusive to views and the surrounding landscape.
- C. When a use permit is granted for a co-location on a facility with an existing use permit, the action of granting the new use permit shall extend the existing use permit so that they will expire simultaneously.

§ 16.7 SUBMITTAL REQUIREMENTS

- A. All wireless communication facilities shall submit the following information:
 - 1. All PWSF applications will go through the normal pre-application process as outlined in § 3.0 of this Ordinance.
 - 2. A map of the service area for this facility.
 - 3. A scaled site plan indicating the location, type and height of the proposed facility, proposed facility, mounting style and number of antennas on each facility, on-site land uses and zoning, adjacent land uses and zoning, proposed means of access, setbacks on property lines, elevation drawings of the proposed facilities, and any other information deemed by the Zoning Administrator to be necessary to assess compliance with this article.
 - 4. Each applicant for an antenna and/or a tower shall provide the Town with an inventory of its existing towers, antennas, or sites approved for towers, antennas, which are within the jurisdiction boundaries of the Town as well as the Town's planning area as within one (1) mile of the Town's incorporated boundaries as shown on the General Plan. The inventory shall include specific information about the location, height, range, design of each antenna and/or tower, and the owner/operator of the existing facilities if known. This inventory shall include a one (1) year build-out plan for all other wireless communications facilities within the Town.
- B. All new towers or poles shall also provide the following information:

1. A map that shows any personal wireless antenna monopoles or towers, within a mile radius of the proposed site, that are existing or are currently under construction.
 2. Description of any efforts to co-locate the proposed facility on one of the monopoles or towers that currently exists, or is under construction. Provide engineering information or letters from the owners of the existing monopoles describing why co-location is not a possibility.
 3. Description of detailed efforts to locate the proposed facility on an existing vertical element, such as a building or a pole, that is comparable to the height of the proposed facility. Include a map of the sites.
 4. The applicant shall demonstrate that the engineering of a proposed tower or pole and placement of ground mounted facilities will accommodate other providers' facilities. The owner of the tower or pole and the property on which it is located must certify that the tower or pole is available for use by another wireless telecommunications provider on a reasonable and non-discriminatory basis.
 5. Description of efforts to blend personal wireless facilities with the surrounding area, including the process for arriving at the color for the proposed pole or tower. Describe the efforts to minimize the diameter of the pole and the mass of the tower supporting the proposed facility.
 6. Illustrate the method of fencing and the finished texture and color and, if applicable, the method of camouflage and illumination.
- C. All new rooftop and building mounted PWSF shall also provide the following:
1. Description of the type, height, mounting style, number of antennas, and method of screening or blending the facility with the building.
 2. Description of the process for arriving at the color of the personal wireless facility and the options that were explored for screening the personal wireless facility.
 3. Description of the alternative structures used and any structural alterations that may be required to accommodate the PWSF, such as but not limited to, elements that camouflage or conceal the presence of antennas or poles, if a pole is utilized to support the personal wireless facility.

§ 16.8 EXEMPTIONS

- A. Amateur radio towers and antennas are permitted in all residential districts, without a Conditional Use Permit, provided:
1. Such structures shall not be located in a required front yard, street side yard, interior side yard, or front yard of the dwelling or principal building; and
 2. Such structures do not exceed a height of fifteen (15) feet within a required street side yard, interior side yard or rear yard; and

3. Such structures do not exceed the maximum building height of the zone district in which such structure is located; and
 4. Not more than two (2) such structures shall be erected per lot or parcel.
- B.** Communication towers and antennas designed and used specifically for public safety purposes shall be reviewed by the Zoning Administrator and are exempt from the Conditional Use Permit process. Communication towers and antennas approved for public safety purposes, which are also utilized by commercial communication companies, shall be considered commercial communication towers and are subject to approval of a Conditional Use Permit.

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ARTICLE XVII – SIGN PROVISIONS

§ 17.0 PURPOSE

The purpose of this Article is to establish comprehensive provisions that will eliminate confusing, distracting and unsafe signs; establish reasonable regulations to promote economic vitality for local businesses and services; and enhance the visual environment of the Town.

§ 17.1 INTENT

The intent of these provisions is to maximize establishment identification, minimize visual clutter, and maintain a high quality of signs throughout the Town.

§ 17.2 DEFINITIONS

For the purpose of this Article, the following words, terms, and phrases shall have the following meanings:

Animated Sign: Any sign or part of a sign which changes physical position by any movement, rotation or undulation or by the movement of any light used in conjunction with a sign such as blinking, traveling, flashing or changing degree of intensity of any light movement other than burning continuously.

Awning, Canopy, or Marquee Sign: A sign that is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by this Ordinance. A marquee is defined as a canopy constructed of rigid materials which projects over an entrance to a building.

Banner Sign: A temporary sign of fabric, pliable plastic, paper, or other light material not enclosed in a rigid frame.

Billboard: Same as Off-Site Sign.

Bulletin Board: An on-site sign which identifies a noncommercial institution or organization, on site, which contains the name of the institution or organization and associated individuals, and general announcements of events or activities at the institution, or similar messages of general public interest.

Business Sign: An on-site sign which attracts attention to a business or profession, or to a commodity or service sold, offered or manufactured onsite, or to an entertainment offered.

Construction Sign: A temporary sign, limited to the period of construction, providing information about future development or current construction on a site, and the parties involved.

Directional Sign: Signs limited to directional messages, which do not contain either identification or advertising copy, which aid the flow of pedestrian and vehicular traffic as well as providing directional information relating to points of interest, institutions, facilities and districts.

Directory Sign: A sign listing the names, uses, or locations of the various businesses' or tenants within a building or a multi-tenant development, but not for the purpose of advertising products, goods, or services.

Fascia Sign: A sign which is mounted to the horizontal member covering the joint between the

top of the building wall and the projecting eaves of the roof.

Fixed Balloon: Any lighter than air or gas filled inflatable object attached by a tether to a fixed place.

Freestanding/Monument Sign: A sign which is erected on its own self-supporting permanent structure, detached from any supporting elements of a building.

Identification Sign: A sign that includes, as copy, only the name of the business, place, organization, building, street address, or person it identifies.

Illuminated Sign: A sign which is artificially lighted, either internally or externally.

Menu Board Sign: A sign displaying the bill of fare of a drive-in or drive-thru restaurant.

Non-conforming Sign: A sign lawfully erected and maintained prior to the adoption of this Ordinance which does not conform to the requirements of this Ordinance.

Off-Site Sign: A sign which directs attention for a commercial purpose to a business, commodity, a service, entertainment, or product not related to the other commercial uses existing on the premises upon which the sign is located.

Parapet Sign: A sign attached to that portion of a building's exterior wall that projects above the plate line of the building.

Political Sign: A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Portable Sign: A temporary sign not affixed to a structure or ground mounted on a site.

Projecting Sign: A sign attached to a building or other structure and extending in whole or in part more than fourteen (14) inches beyond the building.

Roof Sign: A sign erected on, above, or over the roof of a building so that it projects above the highest point of the roof line, parapet, or fascia.

Shingle Sign: A sign suspended from, and located entirely under a covered porch, covered walkway, or an awning and is anchored or rigidly hung to prevent the sign from swinging due to wind movement.

Sign: Any object, device, display or structure (including but not limited to letters, words, numerals, figures, symbols, pictures, outline, character, color, illumination, trademark, logo or any part or combination) used for visual communication which is intended to attract the attention of the public and is visible from the public rights-of-way or other properties.

The term "sign" shall also mean and include any display of one (1) or more of the following: multiple colored bands, stripes, patterns, outlines or delineations displayed for the purpose of commercial identification but shall not include any national or state flags, window displays, athletic score boards, or the official announcement of signs of a government agency.

Vehicle Sign: A sign mounted, painted or otherwise placed on a trailer, truck, automobile or other vehicle so parked for the purpose of displaying advertising signage.

Wall Sign: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign.

Window Sign: Any poster, cut-out letters, painted text or graphic, or other text or visual presentation affixed to, or placed within six (6) feet behind a window pane, and is placed to be read from the exterior of a building.

§ 17.3 GENERAL REQUIREMENTS

- A.** The regulations, requirements, and provisions set forth in this section shall apply to all signs erected, placed, or constructed within the Town.
1. All signs shall require a sign permit issued by the Town in accordance with the provisions of this Article except those signs specified in § 17.8 of this Article.
 2. All signs shall be structurally designed, constructed, erected, and maintained in accordance with all applicable provisions and requirements of the Town of Superior Codes and Ordinances.
 3. Signs shall not be located in a manner which interferes with pedestrian or vehicular travel, or poses a hazard to either pedestrians or vehicles.
 4. Signs shall not be located within or projecting over any public street, right-of-way, or other public property, except shingle signs and projecting signs as provided in § 17.4. The Town may install signs on its own property to identify public buildings and uses, to provide necessary traffic control, and to provide pedestrian directional signs in the TC Zoning District as provided in § 17.4.
 5. Signs shall be located on the building in such a manner that the signage can be seen only from the main entrance point(s) where the customer accesses the building.
 6. All signs and sign structures, conforming and nonconforming, shall be maintained in good order, repair, and appearance at all times so as not to constitute a danger or hazard to the public safety or create visual blight.
 7. Signs may be externally illuminated or non-illuminated. The source of the sign's illumination shall not be visible from any street, sidewalk, or adjacent property. This shall not preclude the use of neon sign elements.
 8. There shall be no visible angle iron supports, guy wires, braces or secondary supports. All sign supports shall be an integral part of the sign design.
- B.** Sign height is defined as follows:
1. Free-standing signs shall be measured as the vertical distance from the top of the highest element of the sign or sign structure to the top of the curb, sidewalk, or street grade nearest the sign. The height of any monument base, or other structure erected to support or ornament the sign shall be measured as part of the sign height.
 2. Wall, fascia, or parapet mounted sign height shall be measured as the vertical distance from the top of the sign or sign structure from the base of the wall on which the sign is located.

C. Sign Area is defined as follows:

1. Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy shall be measured as that area within the outside dimensions of the background panel or surface.
2. Sign copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building or other structure that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy shall be measured as a sum of the smallest rectangle that will enclose each word and each graphic in the total sign.
3. A double faced sign shall be considered as one sign when determining the sign area, provided both faces are parallel and the distance between faces does not exceed one (1) foot.
4. Where a sign has three (3) or four (4) faces the area of the sign shall be calculated as the total area of all faces.

§ 17.4 PERMITTED SIGNS

A. Single and Multiple Residential Districts including the AR, RR, ER, SR, R1-8, R1-5, R-2, and R-3 Zone Districts. In all residential zone districts the following shall apply:

1. Wall Sign:

- a. Single Residential Uses: One (1) wall mounted sign per lot not exceeding two (2) square feet in area may be permitted. The sign shall include only the name of the residence or occupant, and the street address.
- b. Multiple Residential Uses: One (1) wall mounted sign per lot or unit not exceeding two (2) square feet in area may be permitted. The sign shall include only the name of the residence or occupant, and the street address. Building numbers or letter signs and necessary directional signs for multiple developments shall be in compliance with Fire and Police Department requirements, and shall not be counted as part of the aggregate sign area.
- c. Non-residential Uses: One (1) wall mounted sign per lot not exceeding six (6) square feet in area may be permitted. The sign shall only include the name of the facility or organization and the street address.

2. Monument/Freestanding Sign:

- a. Single Family Residential Uses: One (1) freestanding sign per lot not exceeding two (2) square feet in area nor exceeding a height of three (3) feet may be permitted. The sign shall include only the name of the residence or occupant, and the street address.
- b. Multiple Family Residential Use: A maximum of two (2) freestanding

identification signs with an aggregate area not to exceed twenty-four (24) square feet may be permitted at each main entrance for an apartment or condominium complex or such similar use. The maximum sign height shall be five (5) feet. The sign shall include only the name of the development and the street address.

- c. Non-residential Uses: One (1) freestanding sign per lot not exceeding twelve (12) square feet in area nor a height of five (5) feet may be permitted. The sign shall only include the name of the facility, organization or development, and the street address.

3. Subdivision Identification Signs:

- a. A maximum aggregate area of thirty-two (32) square feet may be permitted for each sign provided that not more than one sign shall be permitted on each street frontage of the project site.
- b. The maximum sign height shall be six (6) feet. The sign shall include only the name of the development and the name, address, and telephone number of the developer or project proponent.

4. Reader Panel Signs:

- a. Churches may be permitted one sign per street frontage provided it does not exceed twelve (12) square feet in area and does not exceed five (5) feet in height.
- b. Schools may have one (1) sign not to exceed twenty-four (24) square feet in area and six (6) feet in height.

B. Commercial Districts: In Commercial Zone Districts the following shall apply:

1. Window Signs:

- a. The total aggregate area of all window signs shall not exceed twenty-five (25) percent of the total area of the windows through which they are visible. All window signs shall be counted towards the total allowed signs per business.

2. Wall and Awning Signage:

- a. The sign area for each business or individual tenant shall not exceed one (1) square foot for each linear foot of street or store frontage.
- b. Signs shall not extend horizontally a distance greater than fifty (50) percent of the width of the building wall on which it is displayed.

3. Banners:

- a. Banners shall be made of cloth, nylon, or similar material.
- b. Banners may be hung from street lights that are specifically designed to

accommodate banners and which advertise a Town-authorized special event, a community-wide event, or a community message, but not for individual businesses.

- c. Banners which advertise a Town-authorized special event, a community-wide event, or a community message may be hung on the bridge at Hwy 177 and US 60 with an approved Special Event Permit.

4. Reader Panel Signs:

Municipal uses may only have one (1) freestanding reader panel sign not to exceed twenty-four (24) square feet in area and six (6) feet in height.

5. Total Signage:

- a. The total maximum aggregate of signs shall not exceed sixty (60) square feet per business.
- b. Freestanding /monument for a multi-tenant center identification sign shall not be counted towards the individual businesses or anchor tenant's allowed signs provided the name of the businesses or anchor tenant is not part of the center identification name on the freestanding/monument sign.

C. Town Center Zone District:

In the Town Center (TC) Zone District the following types of signs may be permitted, as well as preserved or restored signage historical to the individual buildings, provided that the combined aggregate of all signs for each ground floor business on a street does not exceed one (1) square foot for each linear street frontage of business, up to a maximum of fifty (50) square feet.

1. Shingle Signs and Projecting Signs:

- a. One (1) shingle sign or projecting sign which is designed and oriented primarily for the aid of pedestrians may be allowed per business and shall be located on the business it identifies.
- b. Said sign shall have no less than an eight (8) foot clearance between the bottom of the sign and the sidewalk.
- c. Shingle signs shall have a maximum area of three (3) square feet.
- d. A projecting sign for each ground floor business on a street shall not exceed one (1) square foot for each linear street frontage of business, up to a maximum of fifteen (15) square feet.
- e. Said sign shall only identify the name of the business. Such signs shall not include advertising copy.
- f. A wall, fascia, or parapet sign shall not be permitted if a projecting sign is used to identify the business.

2. Awning Signs:

- a. A maximum of twenty-five (25) percent of the front face area of the awning may be used for signage.
 - b. Said signs shall only identify the name of the business and shall not include advertising copy.
- 3. Window Signs: The total area of all window signs shall not exceed twenty-five (25) percent of the total area of the windows on which they are displayed.
- 4. Parapet Signs: Shall not project above the top of the building parapet.
- 5. Banners:
 - a. Banners shall be made of cloth, nylon, or similar material.
 - b. Banners may be hung from street lights that are specifically designed to accommodate banners and which advertise a town-authorized special event within the Town Center Zone District or a community-wide event, or a community message, but not for individual businesses.
 - c. Banners may be strung across or over the public streets for community events, with an approved Special Event Permit.
- 6. Total Signage: The total maximum aggregate of all signs shall not exceed fifty (50) square feet per business.

D. Industrial Districts: In the Industrial Zone Districts the following shall apply:

- 1. Freestanding Signs:
 - a. One (1) freestanding sign shall be permitted per street frontage.
 - b. The sign shall not exceed eight (8) feet in height nor eighty (80) square feet in area, provided no other building or wall signs are used.
 - c. If wall, building or other types of signs will be used for the development, then the maximum height of the freestanding sign shall be six (6) feet with a maximum area of twenty-four (24) square feet.
- 2. Wall or Building Signage:
 - a. The sign area for each business or development shall not exceed one (1) square foot for each linear foot of street frontage for a maximum of forty-eight (48) square feet.
 - b. Signs shall not extend horizontally a distance greater than fifty (50) percent of the width of the building wall on which it is displayed.
 - c. Signs should be located near the building entryway and shall not exceed a height of twenty-four (24) feet as measured per § 17.3 B.

E. Open Space Districts: In the Open Space Zone Districts the following shall apply:

- 1. Wall Sign: One (1) wall mounted sign per lot not exceeding six (6) square feet in

area may be permitted. The sign may only include the name of the facility, organization or development and the street address.

2. Freestanding Sign: One (1) freestanding sign per lot not exceeding twelve (12) square feet in area nor exceeding a height of five (5) feet shall be permitted. The sign shall only include the name of the facility, organization, and the street address.
3. Directional or Informational Signage:
 - a. Signs shall be non-illuminated.
 - b. Signs shall not exceed twelve (12) square feet in area or six (6) feet in height.

§ 17.5 PD ZONE DISTRICT

A comprehensive sign program within the PD Zone District shall be reviewed by the Planning and Zoning Commission. The Commission, upon consideration of the sign program, will forward a recommendation to the Town Council. The Town Council may then approve, conditionally approve, or deny the sign program as part of the approval process of the PD Zone District.

§ 17.6 TEMPORARY SIGNS

A. Banners, Pennants and Displays for Grand Openings:

1. Banners, pennants, and other displays shall be allowed on a one time basis for up to fourteen (14) consecutive days during the grand opening of a business.
2. A Temporary Use Permit shall be obtained prior to the installation of any grand opening banners, pennants, signs, balloon, or other displays.
3. The maximum banner size shall be four (4) feet by eight (8) feet and shall be limited to one (1) per street frontage for the business.
4. Banners and pennants shall be displayed only on the building and not within the parking area, perimeter landscape, or some other area of the development.
5. Balloons shall be tethered so as not to exceed the allowed building height for the zoning district in which the business is located, and shall not occupy any required parking spaces.
6. Balloons which display any product not legally available to all residents of the Town shall not be permitted.

B. Portable Signs:

1. Portable signs shall be allowed only in the Commercial "C-1" and "C-2" Zone Districts. Such signs may be placed in the public rights-of-way provided they are placed in a manner that does not impede or restrict vehicular, non-vehicular, or pedestrian traffic. No portable signs shall be allowed within the center medians that divide portions of paved or unpaved roads.
2. All portable signs shall be professionally made and shall not exceed three (3) feet

in height or six (6) square feet in area and shall not exceed one (1) sign per business.

3. Signs may be placed, in permitted areas, only between sunrise and sunset. Such signs shall be removed daily prior to sunset, except if used to advertise a meeting. They shall then be removed at the conclusion of the meeting. If not, they are subject to confiscation by the Town.

C. Off-Site Directional Signs for Special Events:

1. A sign plan shall be required in conjunction with the Special Event Permit or Temporary Use Permit. Said sign plan shall show the proposed location, placement, and size of all off-site directional signs.
2. All signs shall be professionally made.
3. Signs may be placed twenty-four (24) hours in advance of the event and shall be removed within twenty-four (24) hours after the conclusion of the event.

D. Fixed Balloon Signs:

1. Fixed balloon signs may be used when advertising a model home complex in a new subdivision or residential development while under construction.
2. Balloons shall be tethered so as not to exceed a height which is twice the maximum allowed height for the zoning district in which the residential development is located.
3. Balloons shall not display any advertising copy.

E. Banner Signs:

1. Banners shall be made of cloth, nylon, or similar material and may be used in conjunction with a grand opening or a special business event with an approved Temporary Use Permit.
2. Such Temporary Use Permits shall be valid for a maximum period of thirty (30) consecutive days.

F. Political Signs:

1. Signs not exceeding sixteen (16) square feet, or six (6) feet in height are permitted. Said signs shall not be displayed earlier than sixty (60) days prior to an election and shall be removed within ten (10) days following the election.
2. Signs shall not be placed in any portion of the public right-of-way.

G. Real Estate Signs: Signs advertising the sale, lease or renting of a building, suite, dwelling or lot shall conform to the following regulations and are exempt from the total aggregate sign area:

1. In residential zone districts signs shall be non-illuminated and shall not exceed four (4) square feet in area or five (5) feet in height. All signs shall be

professionally made.

2. In non-residential zone districts signs shall be non-illuminated and shall not exceed six (6) square feet in area or five (5) feet in height. All signs shall be professionally made.
3. No off-site real estate development or builder signs shall be allowed.

§ 17.7 SUBMITTAL REQUIREMENTS

Prior to placement of any sign within the Town limits, the applicant shall complete and sign the Town's form entitled "Application for Sign Permit."

§ 17.8 EXCEPTIONS

- A. Permits Not Required: Sign permits are not required for the following signs provided that such signs are not subject to other provisions of this Ordinance. Note: Electric permits are required for all electric signs.
 1. Any sign not exceeding six (6) square feet in area and not otherwise prohibited by this Ordinance.
 2. Standard sign maintenance.
 3. Relocation as required by the Town.
 4. Garage sale signs not exceeding six (6) square feet shall not be up longer than three (3) days. Signs may be placed in the public rights-of-way provided they are placed in a manner that does not impede or restrict vehicular, non-vehicular, or pedestrian traffic or are otherwise prohibited by this Ordinance (§ 17.9A.4). Signs may be placed in the permitted areas only between sunrise and sunset. Signs shall be removed daily prior to sunset or they shall be subject to confiscation by the Town.
 5. Messages painted directly on, or adhesive vinyl film affixed to, the exterior surface of existing mineral glass windows; except that the aggregate square footage of such signs shall be calculated as window signage.
- B. Excepted Signage: The provisions of this Ordinance shall not apply to the following: (Note: Electrical permits are required for all exterior electric signs).
 1. Flags, pennants or insignia of any nation, state, county, town or other political unit, or any church or religious organization.
 2. Tablets, grave markers, headstones, statuary or remembrances of persons or events that are noncommercial in nature.
 3. Works of fine art, historic or cultural artifacts when not displayed in conjunction with a commercial enterprise that may derive direct commercial gain from such display.
 4. Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic, religious or local holidays or events.

5. Temporary signs for events of a general Town-wide civic or public benefit as part of an approved Special Event Permit.
6. Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.
7. The placement and maintenance of official traffic, fire and police signs, signals and devices and markings of the State of Arizona and the Town of Superior or other authorized public agency, provided notices are posted as required by law.
8. Non-illuminated directional or informational signs of a non-commercial public or quasi-public nature, including street, building or suite numbers which do not exceed six (6) square feet.
9. Signs displayed during recognized holidays as identification of temporary sales areas for trees and similar holiday items in conjunction with an approved Temporary Use Permit. Such signs shall be exempted only when displayed within thirty (30) days of the recognized holiday.
10. Signs displayed within the interior of a building.
11. Name plate signs for individual residences.
12. On-site directional and similar informational signs provided such signs are utilized only when necessary for traffic direction or similar informational purposes and do not display corporate colors, logos or other commercial messages. Such signs shall be wall mounted or, if detached, shall not exceed a height of three (3) feet.
13. Monument signs, approved by the Town Council, for identification of Town locations such as the Airport, entryway to the Town, or governmental facilities.

§ 17.9 PROHIBITED SIGNS

- A. Any sign not specifically listed as permitted by this Ordinance is prohibited, including, but not limited to the following:
 1. Signs that are animated, audible, rotate, have intermittent or flashing illumination, or emit audible sound or visible matter, except time and temperature units or drive-up menu boards.
 2. Billboards.
 3. Signs mounted, attached, or painted on trailers, boats, or motor vehicles primarily or consistently parked, stored, or displayed in a manner intended to attract the attention of the public for advertising purposes.
 4. Signs attached to any utility pole or structure, street light, tree, fence, fire hydrant, bridge, park bench or other location on public property unless otherwise specifically addressed in this article.
 5. The use of pennants, banners, balloons, and other similar displays except as permitted elsewhere in this Article, or portable signs except where permitted

subject to § 17.6 of this Article.

6. Off-site signs are prohibited except as permitted in § 17.5 of this Article.
7. Roof signs.
8. Signs displayed in a location prohibited by this Ordinance.
9. Reader panel signs except as specifically authorized herein.

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ARTICLE XVIII – NONCONFORMING USES

§ 18.0 PURPOSE

- A. The purpose of this Article is to provide for regulations and limits to the development and continued existence of nonconforming buildings, structures, uses, and lots. These regulations are designed to protect the rights of legally existing nonconforming uses, structures and buildings under specific conditions and within certain parameters. It is also the intent of this Article to curtail substantial investment in non-conformities and to bring about their eventual improvement or elimination in order to preserve the integrity of this Ordinance, promote adopted plans and policies, and enhance the character of the Town.
- B. Any legal use or activity conducted under Town zoning regulations at the effective date of annexation or under previous zoning regulations in effect at time of the adoption of this Ordinance, or any amendment, is considered a legal nonconforming use.

§ 18.1 LIMITATION ON BUILDINGS AND USES

A legal nonconforming use may continue only in the manner and to the extent that it existed at the time of such enactment, amendment, or annexation, subject to the following provisions:

- A. This Ordinance does not prohibit routine repairs or maintenance on legal nonconforming buildings or structures.
- B. A nonconforming building, structure or use shall not be expanded or extended more than fifty (50) percent beyond the floor area that it occupied on the effective date of this Ordinance or any amendments of this Ordinance, or the effective date of annexation into the Town rendering such building, structure or use nonconforming provided that any such expansions are in compliance with the requirements of this Ordinance.
- C. This Ordinance shall not prohibit the continued occupancy of a non-certified mobile home located and occupied as a private residence within the Town at the time of adoption of this Ordinance. Any existing mobilehome that is not in compliance with the design standards of Article XI at the time of the adoption of this Ordinance shall be brought into compliance with said design standards, if additions or alterations to the structures are requested.
- D. Any nonconforming building or structure, which has been damaged by fire, windstorm, flood, or some similar abnormal and identifiable event, may be reconstructed and used as before provided that a building permit is secured, reconstruction is started within one (1) year from the date of damage, and such reconstruction is diligently pursued to completion. The Planning and Zoning Commission may determine that if a delay in reconstruction was caused by unforeseen circumstances beyond the control of the owner of the premises, an extension may be granted for a reasonable period of time for reconstruction.
- E. If a nonconforming building, structure, or use is destroyed or damaged by fire, windstorm, flood, or some similar abnormal and identifiable event and is replaced by a conforming use, it shall no longer be returned to its previous nonconforming use. The nonconforming use shall not be changed to a different nonconforming use. This shall not prevent a name change or change in ownership of the same nonconforming use.

§ 18.2 LIMITATION ON LOTS

- A.** This Article does not prohibit routine maintenance on legal nonconforming lots.
- B.** This Article shall not prohibit the continued occupancy of a building or structure which has been legally constructed on a nonconforming lot.
- C.** Any legal lot existing at the time of the enactment of this Ordinance, or any amendment, which does not conform to the required lot width or depth and/or lot area may be used for any use permitted in that zone district provided that all setback requirements can be met. If the size and shape of the substandard lot is such that no permitted structure that may be constructed that meets the required setback requirements for that zone district, an application for a variance may be submitted to the Board of Adjustment for their approval, conditional approval, or denial.

§ 18.3 LIMITATION ON SIGNS

- A.** Legal Nonconforming Signs:
 - 1.** A legal nonconforming sign shall mean a sign that was lawfully existing at the time of the enactment of this Ordinance and which does not conform to the regulations as specified in this Article.
 - 2.** A legal non-conforming sign may continue to be utilized in perpetuity only in the manner and to the extent that it existed at the time of the adoption of this Article or any amendment hereto.
 - 3.** A legal nonconforming sign may not be altered in any manner not in conformance with this Article. This does not apply to the normal repair and maintenance of the sign, or to a change of copy, provided that by changing the copy, structural alterations are not required.
 - 4.** Any request for a sign permit shall specify and require that a nonconforming sign shall be brought into conformance with the provisions of this Article, provided that if the nonconforming sign is a type of sign that is prohibited under Article XVII of this Ordinance, it shall be removed.
 - 5.** Notwithstanding any other provisions of this Article, legal nonconforming signs that are located on a parcel of property which is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal nonconforming status of that sign provided that the nonconforming sign:
 - a.** Is not increased in area or height;
 - b.** Remains structurally unchanged except for reasonable repairs or alterations;
 - c.** Is placed in the same relative position on the remaining property that it occupied prior to the relocation; and
 - d.** Is relocated in a manner that complies with all applicable safety

requirements.

B. Signs For a Legal Non-conforming Use:

1. New or additional signs for a nonconforming use shall not be permitted.
2. A nonconforming sign for a nonconforming use which ceases to be used for a period of three hundred sixty-five (365) consecutive days or is suspended by a conforming use, shall be considered a prohibited sign and shall be removed or brought into conformance upon establishment of a conforming use.

C. Signs Rendered Discontinued: Signs and sign structures which remain vacant, unoccupied, de-void of any message, or display a message pertaining to a time, event or purpose that no longer applies shall be deemed to be a prohibited sign or sign structure and shall be removed from the site or the building.

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ARTICLE XIX – SMALL CELL WIRELESS FACILITIES

§ 19.0: PLACEMENT OF SMALL CELL WIRELESS FACILITIES – TERMS AND CONDITIONS

The Town Council of the Town of Superior has adopted the following terms and conditions (the “Terms”) to govern the use of Town-Owned right-of-way for the placement of wireless facilities by a Wireless Services Provider as defined by the Arizona Revised Statutes (“ARS”), Section 9-591, *et seq.*, Chapter 9, Title 8, entitled “Use of Public Highways by Wireless Providers (“Title 8”). These terms are effective as of February 9, 2018 and may be amended only upon approval of the Town Council. These Terms work together with the Town’s Engineering and Design Standards to implement Title 8 in the Town of Superior.

§ 19.1: RECITALS

- A. Town, in its governmental capacity the Town, owns or holds a legal interest in public roads, streets and alleys, and all other dedicated public rights-of-way, public utility easements and public utilities and facilities easements of the Town (collectively the “ROW”). Town is responsible for the management of the ROW within Town’s boundaries. Pursuant to ARS §§ 9-240, 9-276 and 9-582, the Town has exclusive control of the ROW.
- B. As authorized by Title 8, Wireless Service Providers will attach Wireless Facilities to Authority Utility Poles located in the ROW, and where permitted, erect Monopoles in the ROW.
- C. All Town-owned structures approved for such private uses must retain their primary governmental purpose, and those entities occupying public property must not interfere with those purposes in any way, nor shall their activities create an unreasonably dangerous condition for the public.
- D. The purpose of these Terms is to protect the health, safety, and welfare for the public, and to protect the value of, and physical integrity of publicly-owned property and assets.

§ 19.2: DEFINITIONS

Antenna(s): The physical structure, or structures, as depicted on the Site Plans, which are attached to (or incorporated into) the Town-Owned Structure that transmits and/or receives communications exclusively for Permitted Uses by converting electric current to/from electromagnetic waves used in providing wireless services.

Applicable Laws: The federal, state, county, and Town of Superior laws, ordinances, rules, regulations, and permit requirements that apply to Licensee’s use of the Use Areas.

Authority Utility Pole: A utility pole that is owned or operated by the Town and that is in the ROW. Authority Utility Pole does not include a utility pole that is used for electric distribution.

Town-Owned Structure: The vertical element owned by Town and located in the ROW, to which Licensee will attach an Antenna, and which applicable Superior codes, standards, specifications, and regulations permit the collocation of Small Wireless Facilities. Authority Utility Poles and Town-Owned Monopoles are included in the definition of Town-Owned Structures.

Equipment Cabinets: Equipment that is ground mounted or placed on a concrete slab that contains Licensee's improvements, personal property and facilities to operate its Antenna(s) for Permitted Uses including: radio receivers, transmitters, related facilities, and/or cabinets, related cables and utility lines, location based power source (including a battery), the electrical meter and any other equipment necessary for the operation of wireless antenna.

Licensee: An entity providing wireless services and that holds a valid site license to use the ROW for such business.

Licensee's Facilities: The Antennas, Equipment Cabinets, and all other cable, wire, equipment, conduit, screen walls, or other such element used by Licensee for Permitted Uses including antennas, radios, and cable owned by third parties in connection with its installation of Monopoles and Small Cell Wireless Facilities and related equipment on Town-Owned Structures pursuant to individual Site Licenses.

Monopole: A wireless support structure that is not more than forty (40) inches in diameter at the ground level, and that has all of the wireless facilities mounted on the pole or contained inside the pole.

Parties: The Town and a Licensee, collectively.

Party: The Town or a Licensee, singly.

Permitted Uses: Means, and is limited to, Licensee's right to construct, install, operate, maintain and repair the related support facilities (such as wireless antennas and equipment cabinets) for the delivery of wireless services.

Site License: A revocable, nonexclusive permission to attach facilities to Town-Owned Structures and encroach in the ROW, which does not create or confer any interest in real or personal property.

Small Cell Wireless Facility: A wireless facility that meets both of the following qualifications:

1. Having all antennas located inside an enclosure of not more than six (6) cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet in volume; and
2. All other wireless equipment associated with the facility are cumulatively not more than twenty-eight (28) cubic feet in volume, or fifty (50) cubic feet in volume if the equipment was ground mounted before August 9, 2017. The following types of associated ancillary equipment are not included in the calculation of equipment volume under this definition: (i) an electric meter; (ii) concealment features; (iii) a telecommunications demarcation box; (iv) grounding equipment; (v) a power transfer switch; (vi) a cutoff switch; and (vii) vertical cable runs for the connection of power and other services.

Small Wireless Facility: A Small Cell Wireless Facility or a Monopole.

Third Party Areas: The portions of the right-of-way, such as canal and railroad crossings or other areas that for any reason have limited right-of-way dedications or that have regulatory use restrictions imposed by a third party.

Use Area: The area that Licensee is permitted to use pursuant to an approved Site License. The term Use Area includes the area depicted on the Site License that shows where antenna and other Wireless Facilities will be attached to the Town-Owned Structure, and where the Equipment Cabinet and Cable Route will be located. The Use Area shall be the smallest geometric shape necessary to accommodate

the Wireless Facilities.

Utility Pole: A pole or similar structure that is used in whole or in part for communications service, electric distribution, lighting or traffic signals. Utility pole does not include a monopole.

Wireless Facility: Equipment at a fixed location that enables wireless communications between users of equipment and a communications network, including both of the following: (a) equipment associated with wireless communications; and (b) radio transceivers, antennas, coaxial or fiber-optic cables, regular and backup power supplies and comparable equipment, regardless of technological configuration.

1. Includes small wireless facilities.
2. Does not include the structure or improvements on, under or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with an antenna.
3. Does not include wi-fi radio equipment described in ARS § 9-506, Subsection I or microcell equipment described in ARS § 9-584, Subsection E.

Wireless Services: Any services that are provided to the public and that use licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

§ 19.3: LICENSING SCOPE

- A. Licensee shall not attach any Wireless Facility to a Town-Owned Structure, place Licensee Facilities in the ROW, or erect a Monopole in the ROW without an approved Site License. Placement of any unauthorized facilities on Town-Owned Structures or in the ROW without a Site License shall constitute trespass.
- B. Site Licenses do not provide Licensee with any ownership or leasehold interests in the Town-Owned Structures, replacement poles or ROW, nor do they provide Licensee with any of the Town's rights to use the public property upon which the Town-Owned Structures and Licensee's Facilities are located, other than those expressly provided herein or in the Site License.
- C. Town specifically reserves to itself and excludes from an approved Site License a non-exclusive and delegable right over the entire Use Area for all manner of real and personal improvements related to governmental activity or other improvement designed to benefit the public. Licensees accept the risk that the Town and others may now or in the future install or modify facilities in the Use Areas in locations that make the area unavailable for Licensee's use. Such activities may include, but are not limited to any and all construction, erection, installation, use, operation, repair, replacement, removal, relocation, raising, lowering, widening, realigning, or otherwise accommodating all manner of streets, sidewalks, alleys, trails, traffic control devices, transit facilities, pipes, wires, cables, conduit, sewer, canals, drains, overpasses, culverts, bridges, and other encroachments, and any other use of the ROW that the Town may determine from time to time to be a benefit to the public.

- D. There may be portions of the ROW, such as canal crossings, structures not owned or operated by the Town, or other areas that are encumbered for the benefit of others, have limited dedications to the public, or that have regulatory use restrictions imposed by a third party. Areas subject to such encumbrances, restrictions, or regulation are Third Party Areas and Licensee Facilities shall not be constructed or placed in such areas without the express written permission from the third party or third parties that have property rights or regulatory authority over the specific Third Party Area.
- E. Town shall have full authority to regulate use of the Use Areas and to resolve competing demands and preferences regarding use of the Use Areas and to require Licensee to cooperate and participate in implementing such solutions. In exercising its authority, the Town may consider any legal, timing, operational, financial and other factors affecting existing and future proposals and public needs in the Use Area.
- F. Licensees assume all risk, costs and expenses related to the Licensee Facilities and loss of service that may occur due to damage, destruction or collapse of any Town-Owned Structure or due to any incompatibility of Licensee's use with Town's use, or other user's use, of the Town-Owned Structures. Licensee shall be solely responsible for the relocation of any Licensee Facilities placed on a structure or property not owned by Town or wrongly designated as a Town-Owned Structure and/or ROW at any time.
- G. Town may require Licensees to remove any unauthorized attachment to a Town-Owned Structure or placement of facilities in the ROW. If Licensees fail to remove the unauthorized facilities within thirty (30) days after notice, Town may remove the unauthorized facilities without incurring any liability, including but not limited to liability for interruption of service. Licensees shall reimburse Town for its actual costs of removal of the unauthorized facilities. The failure of the Town to act to remove any unauthorized facilities shall not constitute permission or a de facto Site License in any manner, nor shall subsequent issuance of a Site License operate retroactively.
- H. Licensee Facilities may be used solely for Permitted Uses, and Licensees are not authorized to, and shall not use the Licensee Facilities to offer or provide any other services not specified herein, or in the applicable site license. The Licensee Facilities shall be owned by Licensees.

§ 19.4: LICENSING PROCEDURES

- A. Licensee shall submit an application for an individual Site License on a Town application form. Once the application is reviewed and approved by Town, a Site License can then be executed by the Parties. The Town Engineer or designee will have the authority to execute a Site License.
- B. Licensee shall submit one Application for each site or proposed Use Area, but applications may be batched as permitted under A.R.S. § 9-593(D).
- C. Any change to the site plan of an approved Site License is void unless Town agrees to the change in writing during the Site License approval process.
- D. Licensees shall comply with any necessary zoning, building permit, traffic control, ROW

management requirements, non-Town utility permits, other permits as required, or other regulatory requirements (“Permits”) that apply to Licensee Facilities.

- E. Licensees are responsible for the study and evaluation of the existing Town-Owned Structures and ROW to be utilized by Licensee and for determining the fitness for the use by Licensee. Town expressly disclaims all warranties of merchantability and fitness for a purpose or absence of hazardous conditions associated with the Town-Owned Structures and ROW. Town makes the Town-Owned Structures and ROW available for Licensee’s use “AS IS.”
- F. To the extent that Licensee owns any fiber or conduits that will be placed underground, and to the extent that State law requires it, Licensee shall comply with Arizona Revised Statutes Title 40, Chapter 2, Article 6.3 by participating as a member of the Arizona Blue Stake Center. A copy of Licensee’s proof of membership shall be filed with the Town when the Application is submitted.

§ 19.5: STANDARDS FOR INSTALLATION, OPERATIONS, AND MAINTENANCE

- A. Licensee, at its sole expense, shall supply all material associated with the installation, operation, and maintenance of Licensee’s Facilities. Licensee shall maintain Licensee’s Facilities always.
- B. Where installation of Licensee’s Facilities requires replacement of an existing Town-Owned Structure, Licensee shall replace the Town-Owned Structure with a structure meeting all applicable Town standards and specifications, and shall return replaced structures to Town at a designated location.
- C. All Licensee Facilities shall be designed and constructed by Licensees at the Licensees’ sole cost and expense, including without limitation any alteration, other change to the Town’s equipment, personnel, or other improvements that may occur. In no event shall Town be obligated to compensate a Licensee in any manner for any of Licensee’s improvements or other work provided by Licensee during or related to the term of any Site License. Licensee shall timely pay for all labor, materials, work, and all professional and other services related thereto and shall pay, protect, indemnify, defend and hold harmless Town and Town’s employees, officers, contractors, and agents against all claims related to such items. Licensee shall bear the cost of all work required from time to time to cause the Use Areas and Town’s adjoining property (if directly impacted by Licensee’s work) to comply with local zoning rules, the Americans with Disabilities Act, building codes, and all similar rules, regulations and other laws if such work is required because of work performed by Licensee, by Licensees’ use of the Use Areas, or by any exercise of the rights granted to Licensee under a Site License.
- D. Licensees shall purchase and store one (1) street light and traffic signal pole in anticipation of emergency or routine replacement of such poles utilized by Licensee or Town. All replacement poles shall be approved by Town prior to installation.
- E. Licensees shall apply for and obtain one (1) annual permit for emergency operations occurring within the ROW and/or on the Town-Owned Structures. Each Licensee shall renew such permit annually during the term of each Site License so that such a permit is in force during the entire time that Licensee is occupying the ROW.

- F. All work in the ROW will be performed only by a Licensee and its contractors, and will be performed substantially in compliance with Superior Town Code, applicable Town policies, the Uniform Standard Specifications and Details for Public Works Construction sponsored and distributed by the Maricopa Association of Governments (“MAG”) as amended, Superior’s Engineering and Design Standards, Superior’s Construction Material Field Testing Handbook, Superior’s Approved Product List and Technical Specifications, National Electric Code (NEC), National Electric Safety Code (NESC), OSHA regulations, compliance with the FCC Radio Frequency Exposure Guidelines (FCC OET Bulletin 65 and IEEE C95 Standards) and all other applicable radio frequency emissions laws and regulations in effect from time to time, including, FCC’s RF for “general population/uncontrolled exposure” and for “occupational/controlled exposure”.
- G. Upon performing work in the ROW, Licensee shall simultaneously restore the ROW to its prior condition, as directed by Town, and repair any holes, mounting surface or other damage whatsoever to the ROW. Such work shall include revegetation and appropriate irrigation systems for revegetated areas.
- H. Licensees shall, at all times during the term of a Site License, maintain the Licensee Facilities in good repair and shall keep the Use Area free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or source of undue vibration, heat, noise or interference.
- I. Licensees shall prepare and maintain record (As-Built) drawings of all Licensee Facilities located on Town-Owned Structures and in the ROW, and furnish such record drawings at Town’s request. Locations of said encroachments shall be reported using State Plan Coordinate System Arizona Central Zone, North American Datum 1983 (NAD83) for horizontal position, and North American Vertical Datum 1988 (NAVD88) for vertical positions, or other public land survey system accepted by the Town Engineer or designee. Licensees shall furnish Town copies of the record drawings in both hard copy and electronic formats, as requested by the Town. The electronic copy shall be provided in Autocad 2014 DWG format or other current Town electronic format. If the horizontal and vertical locations are not known or provided as requested by Town, Licensees shall reimburse the Town for actual costs associated with locating and potholing a Licensee’s Facilities, in the event that Licensee Facilities need to be located in connection with one of Superior’s projects.
- J. If Licensee Facilities are not located in the precise location depicted in the Site License or the record drawing (As-Built) Drawings, Licensees shall be responsible, and shall reimburse Town, for all costs and damages incurred in locating the Licensee Facilities, and all delay costs incurred to locate (and if necessary relocate) the Licensee Facilities.
- K. Consistent with the requirements of Superior Town Code and Superior’s Engineering and Design Standards, Licensees shall screen or conceal, as applicable, all pole-mounted, pad, and ground-mounted equipment used for Permitted Uses with required aesthetic features, such as canisters, screen walls, and landscaping, as approved by Town with each Site License. Concealing and screening shall blend with or enhance the surrounding area with the use of artistic and/or architectural detail, and shall take into account scale, form, texture, materials and

color, and shall conceal the equipment. Concealing and screening features shall be noted on the site survey and construction drawings submitted with each application.

- L. Licensees shall not install signage at the Use Area except as may be required for the safe use of the Use Areas by the Town, Licensee, and others. Any such signs shall be maintained at all times, and shall include Licensee's name, business address, telephone number, and emergency contact information. In no instance shall such signs contain a commercial message.
- M. Except for security lighting operated with the Town's approval from time to time, Licensees shall not operate outdoor lights at the Use Areas.
- N. Except during permitted construction and safety devices, equipment located on the Use Area shall not emit noise greater than ambient noise level of the surrounding ROW. This limitation does not apply to infrequent use of equipment that is as quiet or quieter than the use of air conditioning equipment and is no louder than a typical well-maintained residential air conditioning unit.
- O. If a Licensee abandons use of any of Licensee's Facilities, or any portion thereof, installed under or pursuant to an approved Site License, the Licensee shall remove all of the Licensee Facilities, including subgrade facilities and foundations installed pursuant to the approved Site License immediately, but in no event later than three (3) days, at the Licensee's expense, and restore the Town-Owned Structure and ROW, including Licensee Facilities installed sub-grade, to better than or equal to the condition that existed prior to construction and installation of the Licensee Facilities.
- P. Licensees shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. If any lien is filed against Town Property as a result of acts or omissions of a Licensee or its employees, agents or contractors, the Licensee shall discharge the lien or bond the lien off in a manner reasonably satisfactory to Town within thirty (30) days after Licensee receives written notice that the lien has been filed.
- Q. Licensees shall install separate meters for any utilities used by Licensee and shall pay for all utilities supplied to, used, or consumed as a result of the operation of Licensee's Facilities, including without limitation (as applicable) all gas, electric, sanitation, and telephone installation and monthly use charge. Licensees shall comply with all Town of Superior Ordinances, permit requirements, Utility Terms and Conditions, and regulations related to utility services. Any third-party equipment needed to service the Licensee Facilities shall be required to apply for and obtain separate permits. The Town shall not provide easements within the right-of-way to Licensees or third-parties.
- R. In the event of an emergency, maintenance, accident or condition that causes the Town to replace or remove a Licensee Facilities, the Licensee at its sole expense shall be responsible for the reconnection to a utility. No secondary power supply (generator or battery, permanent or temporary) may be located on the Town-Owned Structures or in the ROW without the prior written consent of Town pursuant to an approved Site License.

§ 19.6: DURATION

- A. Term of Master Agreement and Site License: Subject to a Licensee's right to terminate, Site Licenses shall have a duration of ten (10) years.
- B. Early Termination: Licensees may terminate a Site License at any time upon service of sixty (60) days written notice to Town. In the event a Licensee exercises this option, Licensee shall be subject to all obligations in these Terms to restore and rehabilitate all Town-Owned Structures and ROW used for Licensee's Facilities to their former condition and utility.
- C. Renewal: Site Licenses shall be renewable for one (1) additional term of ten (10) years, at a Licensee's sole discretion, so long as the Licensee and Licensee's Facilities are in compliance with these Terms, the related Site License, and all applicable federal, state, local, and Town codes, standards, specifications, rules, and regulations.

§ 19.7: RELOCATION OF TOWN-OWNED STRUCTURES

Town shall have the right at any time to require relocation of a Licensee's Facilities or any portion of them to accommodate a public project, at Licensee's expense, to another location suitable for Licensee's use. Town will provide Licensee with as much advance written notice as reasonably possible before any required relocation. Licensee shall have at least ninety (90) days' notice of such relocation, and shall fully cooperate in such relocation. The notice period in this section may be extended by the Town Engineer, in his or her discretion. If a Licensee fails to relocate as required herein, the Licensee shall reimburse Town for actual, direct and indirect damages incurred by the Town as a result of such delays. If necessary Town may permit Licensee to place a temporary Small Cell Wireless Facility (Cell on Wheels or similar installation) on Town Property or at some other location acceptable to Licensee, at Licensee's cost, until such relocation is complete.

§ 19.8: OPERATIONS INTERFERENCE, EMERGENCY DISRUPTION, TESTING, AND RESERVATION

- A. Licensees shall not use the Town-Owned Structures or the ROW in any way which interferes with the use of any portion of the Town property by Town. In the event Town determines that a Licensee's use of the Town-Owned Structures or ROW interferes with the Town's use of the Town property, Town will notify the Licensee of such interference and the Licensee shall have fifteen (15) days to remedy the interference. If a Licensee does not remedy the interference, such action shall be deemed a material breach by the Licensee and Town shall have the right to terminate the Site License.
- B. Town shall be entitled to inspect all construction, reconstruction, or installation work, and to conduct such tests as it deems necessary to ensure compliance with the terms herein and all applicable laws, regulations, and rules. This right to access is in addition to access rights for Town inspectors or other employees and officers acting within their legal authority.
- C. Licensees shall not install, operate, or allow the use of equipment, methodology or technology that interferes or is likely to interfere with the optimum effective use or operation of Town's existing or future fire, law enforcement, Police, Public Safety, transportation, information technology, engineering, emergency or other communication equipment, methodology or technology (including, but not limited to, voice, data or other carrying, receiving or transmitting

equipment). If such interference should occur, the Licensee shall immediately discontinue using the equipment, methodology or technology that causes the interference until the Licensee takes corrective measures to alter the Licensee Facilities to eliminate such interference. Any such corrective measures shall be made at no cost to Town.

- D. Town may remove, alter, tear out, relocate, or damage portions of Licensee's Facilities in the case of fire, disaster, or other emergency if the Town deems such action to be reasonably necessary under the circumstances. In such event, neither the Town nor any agent, contractor, or employee of the Town shall be liable to Licensee or its customers or third parties for any harm so caused to them or Licensee's Facilities. When practical, Town shall consult with Licensee in advance to assess the necessity of such actions and to minimize, to the extent practical under the circumstances, damage to and disruption or operation of the Licensee's Facilities.
- E. Licensees shall at all times retain on call and available to the Town by telephone an active, qualified, competent and experienced person to supervise all activities upon the Use Areas and operation of Licensee's Facilities, and who shall be authorized to represent and act for Licensee in matters pertaining to all emergencies and day-to-day operation of the ROW, and all other matters affecting a Site License.
- F. Licensee will conduct radio frequency emission and interference testing immediately after installation of Small Cell Wireless Facilities if placed within five-hundred (500) feet of Town's communication equipment for all FCC unlicensed spectrum to determine whether the Small Cell Wireless Facilities will disrupt or interfere with Town's uses.
- G. Both Town and Licensee may conduct radio frequency emission and interference studies from time to time to determine whether Licensee's use of the Licensee Facilities will interfere with Town's use of the Town-Owned Structures or the ROW. In the event such a study indicates that Licensee's use will potentially interfere with Town's use of the Town-Owned Structures or the ROW, the Licensee shall have thirty (30) days to remedy the interference to Town's satisfaction. If the problem is not so remedied in thirty (30) days, then Town may require Licensee, at Licensee's full expense, to relocate the Licensee Facilities so as to remove or minimize the interference, to the extent Town deems necessary. Town may permit Licensee to place a temporary Antenna (Cell on Wheels or similar installation) on the Town-Owned Structures, the ROW or at some other location acceptable to Licensee and Town, during relocation of the Licensee's Facilities.
- H. Town may, at its expense, perform tests as necessary to determine compliance of the Licensee Facilities on the Town-Owned Structures or in the ROW with Federal radio frequency exposure limit rules, 47 C.F.R. Section 1.1310, or subsequent Federal rules as amended from time to time.
- I. Licensees shall conduct an initial test for compliance with Federal radio frequency exposure limit rules prior to placing Licensee Facilities (or that of any sub-lessees of Licensee) on Town-Owned Structures or in the ROW into commercial operation, and Licensees shall perform additional tests upon any significant change in the Licensee Facilities on the Town-Owned Structures or in the ROW, such as sublicenses to third parties for them to install communications equipment on the Town-Owned Structures or in the ROW. All such testing

shall be performed by a qualified radio engineer, and a copy of the test results shall be provided to all Parties. If such tests show noncompliance with applicable radio frequency exposure limit rules then in effect, then noncompliant Licensee Facilities on the Town-Owned Structures or in the ROW shall be shut down (except for work necessary to bring it into compliance) until subsequent tests again show compliance with such rules.

- J. Town does not grant, and reserves for itself, its lessees, successors and assigns, (i) all mineral rights, seismic rights and rights to oil, gas, water, other hydrocarbons or minerals on, as to, under or about any portion of the Town Property; (ii) rights to generate electricity for the Town from the wind or wind power on, as to or about any portion of the Town Property; and (iii) the right to grant to others the rights hereby reserved.
- K. Town shall have the right to operate, replace and maintain all Town-Owned Structures in such manner as best serves Town's service requirements including, but not limited to, the right to allow the attachment of additional facilities. Licensee agrees to shut down communications and electrical equipment during any time Town is maintaining, testing or replacing the Town-Owned Structure within one (1) business day from the date of notice. If Licensee fails to shut off the equipment within one (1) business day from the date of notice, Licensee shall reimburse Town for its costs related to the delay including time and labor expenses. The reimbursement will be at a minimum five hundred dollars (\$500) per incident.

§ 19.9: FEES

- A. Licensees shall pay the application fees as set forth by resolution of the Town Council for each Site License at the time of submittal of a Site License application.
- B. Licensees shall pay all applicable permit fees at the time of issuance of a construction permit for each Site License, including by way of illustration and not limitation, all applicable taxes, material testing, traffic control fees, and technology fees that are adopted by the Town from time to time.
- C. The applicable fees set forth for each Site License shall be consideration for the right to use Town-Owned Structures or the ROW.
- D. The Fee shall be paid to Town in advance, on or before the anniversary date of the effective date of each Site License, without prior demand and without any deduction or offset whatsoever.
- E. Fees paid by Licensees are non-refundable.

§ 19.10: CONSTRUCTION NOTIFICATION

Licensee shall notify all adjacent property owners of a proposed Small Cell Wireless Facility installation. Notice shall be accomplished by door hanger or by mail, and shall include: the project location, address, general description, equipment dimensions, a site plan, a photo rendering, Licensee contact information and a construction schedule. Licensee shall include a copy of the notification with the Application. Licensee shall reply, address, and if possible, resolve residents' concerns relating to the proposed Small Wireless Facility promptly, before installation if the proposed facilities are approved, and in a professional manner.

§ 19.11: SAFETY PROGRAM FOR TOWN'S EMPLOYEES

In order to perform duties necessary as owner and manager of the public ROW, the Town and its employees, agents, and representatives must have uninterrupted and safe access to the ROW and all structures located thereon. In conjunction with the requirements of this Ordinance, and in order to ensure the safety of those working on or near a Licensee's Facilities, Licensees must comply with all of the following safety protocols:

- A. Participate in a Town-sponsored RF Safety Program (the "Town's Safety Program"), enrollment in which shall include: (i) a one-time contribution to the Town of five thousand dollars (\$5,000.00) to fund the purchase of two (2) RF Personal Monitors for monitoring radio frequency emissions from Licensee Facilities during maintenance of Town-Owned Facilities and ROW, and also to fund, in part, third-party training for Town personnel who work near Licensees' RF emissions; and (ii) an annual contribution of one thousand five hundred dollars (\$1,500.00) as and for the continuing operation of the Town's Safety Program ("Annual Contribution").
- B. Provide access to a manual kill switch with indicator for each Small Wireless Site that the Town's employees, agents, or representatives can use to turn off all power to the Licensee's Facilities while Town work is performed at the location.
- C. Within twenty-four (24) hours of a request, agree to send a technician with an RF monitor to confirm that all RF emitting equipment has, in fact, been deactivated, and to install all appropriate lockout tags and devices.

§ 19.12: INDEMNIFICATION

To the fullest extent permitted by law, Licensees shall indemnify, hold harmless, and defend the Indemnified Parties for, from and against all claims, damages, losses, and expenses including, but not limited to, reasonable attorneys' fees arising out of or resulting from the conduct or management of Licensee's Facilities, or any condition created in or about the Licensee's Facilities, or any accident, injury, or damage whatsoever occurring in or at Licensee's Facilities, or from the failure of Licensee to keep its facilities in good condition and repair, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property, including loss of use therefrom, and (b) is caused by any act or omission of Licensee, or anyone directly or indirectly employed by it, including any contractor or subcontractor, or anyone for whose acts it might be liable. Notwithstanding the foregoing, Licensee's obligation to indemnify or hold harmless the Indemnified Parties under this provision shall be limited to the extent that the damage or injury is attributable to the negligence or other wrongful acts or omissions of Licensee or its employees, contractors, subcontractors or agents. If the damage or injury is caused by the joint or concurrent negligence of Town and Licensee, the loss shall be borne by Town and Licensee in proportion to their degree of negligence or fault. Licensee's hold harmless agreement includes latent defects, and, subject to standard provisions of the relevant policies, the hold harmless obligation shall be specifically covered and insured by the insurance policies required by these Terms.

§ 19.13: INSURANCE

- A. Without limiting any liabilities or any other obligations of any Licensee or any of its contractors or subcontractors under any Site License or otherwise, a Licensee and its contractors or subcontractors shall provide and maintain, with forms and insurers acceptable to Town, and

until all obligations under all Site Licenses are satisfied, the minimum insurance coverage, as follows:

1. Commercial General Liability Insurance, including coverage of contractual liability assumed under each Site License, affording protection of not less than TWO MILLION DOLLARS (\$2,000,000) per occurrence, combined single limit for bodily injury and property damage, against damages because of, or on account of, bodily injuries to or the death of any person or destruction of or damage to the property of any person, occurring on or about any of Licensee's Facilities or due in any way to the use, occupancy, maintenance or operation of the Small Cell or Ground Facilities or related facilities.
 2. Workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Licensee's and Licensee's contractor or subcontractor employees who may be working on Licensee's Facilities, and employer's liability with a minimum limit of ONE HUNDRED THOUSAND DOLLARS (\$100,000).
 3. Commercial automobile liability insurance with a combined single limit for bodily injury and property damage of not less than TWO MILLION DOLLARS (\$2,000,000) each occurrence with respect to vehicles assigned to or used in the performance of the work, whether owned, hired, or non-owned.
- B. The policies required by Section 19.12 herein shall include the Town of Superior, members of its governing bodies, its officers, agents and employees as additional insureds, and shall stipulate that the insurance afforded for shall be primary insurance, and that any insurance carried by the Town of Superior, members of its governing bodies, its officers, agents and employees shall be excess and not contributory.
- C. Contractor, its subcontractors and its insurers providing the required coverages shall waive all rights of subrogation against the Town of Superior, members of its governing bodies, its officers, agents and employees.
- D. Prior to commencing construction, Contractor or Subcontractor shall furnish the Town with Certificates of Insurance and related endorsements as evidence that policies providing the required coverage, conditions and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days notice of cancellation, termination, or material change shall be sent directly to Town.
- E. All insurance policies shall be obtained from companies duly authorized to issue such policies in the State of Arizona, having Best's ratings of "A" and acceptable to Town.

§ 19.14: BREACH AND LETTER OF CREDIT

- A. Any breach of these Terms or of any provision of a Site License, if left uncured after thirty (30) days' written notice, shall render Licensee's Facilities as unauthorized work within the right-of-way, and shall be subject to the penalties in the Superior Town Code.
- B. Prior to the receiving any Site License or permit, Licensee shall provide a letter of credit in an amount based upon a Licensee's good-faith estimate of the number of Site Licenses to be

constructed within the Town in the current calendar year. The letter of credit shall be a security deposit for a Licensee's performance of all of its obligations under the following Terms.

1. The amount of the letter of credit shall be, as follows: Thirty Thousand Dollars (\$30,000.00) for up to ten (10) Site Licenses; Sixty Thousand Dollars (\$60,000.00) for eleven (11) to twenty (20) Site Licenses; One Hundred Five Thousand Dollars (\$105,000.00) for twenty-one (21) to thirty-five (35) Site Licenses; One Hundred Eighty Thousand Dollars (\$180,000.00) for thirty-six (36) to sixty (60) Site Licenses; Three Hundred Thousand Dollars (\$300,000.00) for sixty-one (61) to one hundred (100) Site Licenses; Four Hundred Fifty Thousand Dollars (\$450,000.00) for one hundred one (101) to one hundred fifty (150) Site Licenses; Six Hundred Seventy-Five Thousand Dollars (\$675,000.00) for one hundred fifty-one (151) to two hundred twenty-five (225) Site Licenses; One Million Fifty Thousand Dollars (\$1,050,000.00) for two hundred twenty-six (226) to three hundred fifty (350) Site Licenses; One Million Five Hundred Thousand Dollars (1,500,000.00) for three hundred fifty-one (351) to five hundred (500) Site Licenses; Two Million Two Hundred and Fifty Thousand Dollars (\$2,250,000.00) for five hundred one (501) to seven hundred fifty (750) Site Licenses; and Three Million Dollars (\$3,000,000.00) for seven hundred fifty-one (751) to one thousand (1,000) Site Licenses. If the number of Site Licenses exceeds one thousand (1,000), then the Three Million Dollar (\$3,000,000.00) letter of credit shall remain in effect, and the amounts for additional Site Licenses shall be calculated according to the calculation above.
 2. The Town will determine at least once annually if Licensee must update the amount of the letter of credit based upon the then-current number of Licensee's Site Licenses.
 3. Licensee shall pay all costs associated with the letter of credit, and shall maintain the letter of credit for at least one (1) year following the term of any Site License.
 4. Town may, in its sole discretion, draw on the letter of credit in the event of any default under these Terms. In such event, Licensee shall cause that the letter of credit be replenished to its prior amount within ten (10) business days after Town notifies a Licensee that it has drawn on the letter of credit.
- C. The Town's remedies for breach are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available under the law.

§ 19.15: GENERAL PROVISIONS

A. Force Majeure

1. Neither Town nor any Licensee shall be liable or responsible for a delay or failure in performing or carrying out any of its obligations (other than obligations to make payments) under any Site License caused by force majeure. Force majeure shall mean any cause beyond the reasonable control of Town or Licensee, as applicable, or beyond the reasonable control of any of their respective contractors, subcontractors, suppliers or vendors, including without limitation: acts of God, including, but not necessarily limited to: lightning, earthquakes, adverse weather of greater duration or intensity than normally expected for the job area and time of year, fires, explosions, floods, other natural

catastrophes, sabotage, acts of a public enemy, acts of government or regulatory agencies, wars, blockades, embargoes, insurrections, riots, or civil disturbances; labor disputes, including, but not necessarily limited to, strikes, work slowdowns, work stoppages, or labor disruptions, labor or material shortages, or delays or disruptions of transportation; orders and judgments of any federal, state or local court, administrative agency or governmental body; the adoption of or change in any federal, state or local laws, rules, regulations, ordinances, permits or licenses, or changes in the interpretation of such laws, rules, regulations, ordinances, permits or licenses, by a court or public agency having appropriate jurisdiction after the date of the adoption of these Terms; or any suspension, termination, interruption, denial or failure to issue or renew by any governmental authority or other party having approval rights of any approval required or necessary hereunder for installation or operation of any Small Cell Equipment or for either Party to perform its obligations hereunder, except when such suspension, termination, interruption, denial or failure to issue or renew results from the negligence or failure to act of the Party claiming the occurrence of an event of force majeure.

2. If either Town or a Licensee is rendered unable to fulfill any of its obligations under a Site License by reason of force majeure, such Party shall promptly notify the other and shall exercise due diligence to remove such inability with all reasonable dispatch, provided that nothing contained in this Section 19.13.A. shall be construed as requiring Town or a Licensee to settle any strike, work stoppage or other labor dispute in which it may be involved, or to accept any permit, certificate, license or other approval on terms deemed unacceptable to such Party, or to enter into any contract or other undertaking on terms which the Party deems to be unduly burdensome or costly.

B. Assignment

Licensees will have the right to assign, sell or transfer its interest under a Site License without the approval or consent of Town, to the Licensee's affiliate or to any entity which acquires all or substantially all of the Licensee's assets in the market defined by the Federal Communications Commission in which the Licensee's Facilities are located by reason of a merger, acquisition, or other business reorganization. Licensees may not otherwise assign a Site License without the Town's consent, Town's consent not to be unreasonably withheld, conditioned or delayed. Any purported assignment in violation of this Section shall be void.

C. Entire Agreement

These Terms and any related Site Licenses represent the entire agreement of the Parties. There are no other agreements or terms, written or oral. Except for those previously-executed and enforceable contracts, these Terms and related Site Licenses supersede all previous communications and representations between the Parties on the same subject matter, whether oral or written. All changes to any Site License agreed to by the Parties shall be in writing, and must be executed by both Parties.

D. Severability

If any provision of these Terms is invalidated by a court of competent jurisdiction, all other provisions hereof shall continue in effect.

E. Governing Law and Choice of Forum

These Terms and all matters relating hereto shall be governed by, construed and interpreted in accordance with the laws of the State of Arizona without reference to principles of conflict of

laws in Arizona or any other jurisdiction. Any proceeding shall be filed, prosecuted and resolved in the courts of the State of Arizona, state or federal, and venue for any litigation or other dispute shall be only in Maricopa County, Arizona. The Parties waive any and all rights to a jury.

F. Remedies Cumulative

All remedies specified in these Terms and all remedies provided by law or otherwise (except as specifically excluded herein), shall be cumulative and not alternative.

G. Attorneys' Fees and Expenses

In the event of default by either Party or any action or suit arising out of these Terms or any Individual Site License Addendum, the prevailing Party or the non-defaulting Party shall be entitled to recover its costs, expenses, reasonable attorneys' fees, experts' fees and witness fees of any type.

H. Notices

Town Manager
Town of Superior
199 N. Lobb Ave
Superior, AZ 85173

I. Exhibits

The forms of Exhibits attached to these Terms may change from time to time in Town's discretion, as technology and business needs change.

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Section 20.1: PURPOSE

The purpose of the Project Area (PA) Overlay District is to:

- A. Primarily, application of the PA Overlay Zone District is designed for those areas of the Town where nonconforming structures, buildings, and lots exist. The PA Overlay Zone District is intended to bring those areas into conformance, as much as possible, with Town Codes. However, use of this Overlay Zone District is not restricted to those areas; it may also be used elsewhere within the Town when appropriate.
- B. Ensure orderly and thorough planning and review procedures that will result in a higher quality design through techniques including, but not limited to, variations in building style, lot arrangements and site planning.
- C. Establish procedures that permit flexibility in design, density, and development requirements for projects, provided that such flexibility does not adversely affect the intent and purpose of the Town's General Plan.
- D. Encourage, through innovative site planning, such things as preservation of the natural character of the land, economy in construction, and maintenance of streets and utilities.
- E. Encourage a reduction in nonconforming uses or parcels provided that no additional nonconforming use or lot layout is increased in any portion of the project.
- F. Produce an environment of stable character that will improve the overall desirability and quality of the project area.

Section 20.2: INITIATION

- A. Rezoning the underlying zone district of an area to combine with the PA Overlay Zone District may be initiated by the owner(s) of the property, the Commission, or the Council.
- B. A PA Overlay Zone District may be combined with an existing underlying zone district to meet the intent of this Article. It may also be processed concurrently with a request to change an underlying zone district to include the PA Overlay Zone District.

Section 20.3: PUBLIC HEARINGS

A Zone Map change for rezoning an underlying zone designation to include the Project Area (PA) Overlay Zone District, or for any amendment to an approved PA Overlay Zone District, shall be in accordance with Article III, Section 3.0 (General Procedural Requirements), Section 3.1 (Notification for Public Hearings), and Section 3.2 (Zone Text Amendment and Zone Map Changes) of the Town's Zoning Ordinance.

Section 20.4: LOCATION AND SIZE

A PA Overlay Zone District may be established in any zone district upon a finding by the

Council, after receiving a recommendation of the Commission, that such a development will comply with the intent of this Article, and that the PA Overlay Zone District substantially complies with the intent and objectives of the General Plan and other Town standards. There is no minimum size for a property that can be processed as a PA Overlay Zone District. However, for undeveloped parcels that exceed three (3) acres in size, the Planned Development (PD) Zone District (Article XII of this Zoning Ordinance) is to be applied.

Section 20.5: PLANS REQUIRED AND PROCEDURES

- A. No use shall be permitted in a PA Overlay Zone District until a Preliminary Plan and a Final Plan have been reviewed and approved by the Commission and Council respectively, in accordance with the provisions of this Article.
- B. All Preliminary Plans and Final Plans prepared for land divisions or adjustments to property lot lines shall be prepared in accordance with the requirements of the Town's Subdivision Ordinance or, for minor land divisions, mergers, or lot line adjustments, with the requirements of Pinal County.
- C. Preliminary Plan: The applicant for a proposed PA Overlay Zone District shall prepare a Preliminary Plan which contains all necessary written and graphic information to describe the general nature of the proposed development. The Preliminary Plan shall contain, at a minimum, the following information:
 - 1. Relationship of the property to the surrounding areas that will be affected by the proposed Overlay Zone District.
 - 2. A map showing adjacent roadways and existing or proposed lot lines.
 - 3. Proposed land uses, including any areas to be conveyed, dedicated, or reserved for public uses. In addition, the project shall be consistent with the permitted uses of the underlying zone district and with the Town's General Plan.
 - 4. A conceptual plan for each building site showing the approximate location of all structures, buildings, and improvements, both existing and proposed.
 - 5. An off-street parking and circulation diagram indicating the proposed movement of vehicles within the project area as well as ingress and egress from a roadway to the parking area.
 - 6. A tabulation in acres, or square feet, of the proposed project and a tabulation of overall density per gross acre.
 - 7. Agreements or provisions of conveyance which govern the use, maintenance, and continued protection of the project and any of its open space areas.
- D. The Preliminary Plan shall be submitted to the Town's Planning Department. Once the Zoning Administrator determines that the Plan substantially conforms to the submission requirements of this Article, the Plan shall be presented to the Commission at a regular

meeting date within sixty (60) days from the date of filing acceptance.

- E. Preliminary Plan Review: The Commission shall investigate and ascertain that the Preliminary Plan meets the following conditions:
 - 1. That the proposed project will constitute an environment of desirability and stability that will be in harmony with the surrounding area, and that it is consistent with the purpose of this Article.
 - 2. That the value or the use of the property adjacent to the area included in the Plan will not be adversely affected, including property values. If so, the Commission may require, in the absence of an appropriate physical barrier, the use of least intensity arranged along the boundaries of the project.
 - 3. That every structure contained in a residential or commercial development shall have access to a public street directly or via some other common area.
 - 4. That the proposed use(s) are permitted in the underlying zone district.
- F. If the Commission finds that the proposed land use depicted on the Preliminary Plan is not in conformance with the current or proposed underlying zone district, does not meet the intent and objectives of the Town's General Plan, or does not meet the objectives of this Article, the Commission shall give no further consideration. In this instance, the applicant may, within ten (10) days after the decision of the Commission is rendered, request an appeal of the Commission's decision to the Board of Adjustment (Board) in accordance with the provisions of Article III, Section 3.7 of Town's Zoning Ordinance. Within thirty (30) days of the request for an appeal, the Board shall hold a public hearing to affirm, reverse, or modify the Commission's decision. If the Board concurs with the decision of the Commission in denying the appeal of a proposed PA, the Board shall give no further consideration. If the Board upholds the appeal and reverses the Commission's decision, the applicant shall then be required to prepare a Final Plan in accordance with the provisions and procedures contained in this Article.
- G. If the Commission finds that the Preliminary Plan is consistent with the underlying zone district, the objectives of the General Plan, and the provisions of this Article, the applicant shall then prepare and submit a Final Plan to the Town. The Commission may require that the applicant modify, alter, adjust, or amend the Preliminary Plan in a manner, and to an extent, as may be necessary and appropriate to the public interest.
- H. The Final Plan shall include all pertinent information relating to the proposed PA Overlay Zone District contained in the approved Preliminary Plan (as may be revised). Once the Final Plan had been submitted to the Planning Department, the Zoning Administrator shall review the Final Plan to determine if it is in compliance with this Article and with any modifications required by Commission approval or by Board approval. Upon determination that the Final Plan is complete, it shall be scheduled for a public hearing before the Council within sixty (60) days.
- I. Before approval of the Final Plan, reasonable adjustments to the Plan may include, but not be limited to the following:

1. Use limitations;
2. Landscaping;
3. Setback and building height;
4. Paving and location of driveways and parking areas;
5. Drainage and hillside requirements;
6. Fences and walls;
7. Location of access ways and easements;
8. Shape and minimum size of individual lots;
9. Signs.

- J. Upon adoption of the PA Overlay Zone District (PA) and the accompanying Final Plan, further action by the Council concerning the approval of the PA application (Final Development Plan or plat map) is not required unless specifically requested by the Council. If the Council does not specifically request approval of the Final Plan, the Town Manager may approve that Final Plan which initiates the zone change.

The decision to approve or disapprove the Final Plan shall be accompanied by a statement explaining to the applicant why a particular decision was rendered, and that the proposed plan met or failed to meet the following conditions:

1. That the development is or is not consistent with the purpose and intent of the Town's General Plan and the provisions of this Article in promoting the health, safety, morals, and general welfare of the public.
2. That the development is or is not designed to produce an environment of stable and desirable character, and that the property adjacent to the area of the proposed development will or will not be adversely affected, including property values.
3. That every structure containing residential or commercial units does or does not have adequate access to public streets.
4. That the average density, excluding open areas occupied by streets and easements is or is not the density required by the pre-existing zoning district otherwise applicable to the site. The Council may require that the applicant modify, alter, adjust or amend the Plan in a manner and extent as it may deem appropriate to the public interest.

- K. Upon approval of the Final Plan by the Council, the PA Overlay Zone District may be applied to The Town's Zoning Map. For example, an underlying R1-5 zone district

would now be designated on the Zoning Map as R1-5PA.

- L. Once the Final plan has been approved, it can only be amended, changed, or modified through the procedures prescribed for initial application approvals.
- M. To the extent that a Final Plan is adopted as a subdivision, in accordance with the Town's Subdivision Ordinance, required easements, streets, and other public property dedications shall be effective upon recordation with the Pinal County Recorder. In the case of non-residential PA Overlay Zone Districts, conveyance of designated easements, streets, and other public property shall be by separate deed approved as to form by the Town Attorney.

Section 20.6: REVERSIONARY CLAUSE

In the event that land located within the boundaries of the PA Overlay Zone District cannot be developed as approved, the only alternative use of the land shall be in accordance with pre-existing use regulations in effect immediately prior to said approval. If the building or work authorized by the building permit for a PA is not commenced within twelve (12) months from the date that such permit was issued, or if the building or work authorized by the building permit is suspended or abandoned at any time after work has commenced for a period of six (6) months, the permit shall expire by limitation and become null and void. Before such work can be re-commenced after permit expiration, a new building permit must be secured with appropriate modification and be resubmitted to the Council for public hearing and approval.

Section 20.7: PA AMENDMENTS

The following procedures shall be followed for any amendment to a PA Overlay Zone District including amendments to a Phasing Schedule.

- A. Major Amendments:
 - 1. A PA Overlay Zone District applicant, or their successor(s) in interest, may file a request for a major amendment with the Planning Department.
 - 2. The change will be deemed major if it involves any one (1) of the following:
 - a. An increase in the approved totals of dwelling units or gross leasable area for the PA Overlay Zone District.
 - b. A significant change in zoning boundaries, as determined by the Zoning Administrator, from those approved for the PA Overlay Zone District.
 - c. Any change which could have a significant impact on areas adjoining the PA Overlay Zone District as determined by the Zoning Administrator.
 - d. Any change which could have significant traffic impact on roadways adjacent or external to the PA Overlay Zone District as determined by the Zoning Administrator.

3. The Zoning Administrator will bring the major amendment before the Commission and Council and will submit background material relevant to the request.

B. Minor Amendments:

1. A PA Overlay Zone District applicant, or his successors in interest, may file a request for a minor amendment with the Planning Department. If the Zoning Administrator determines that the request is not a major amendment but a minor one, they may proceed with sub-section B. 2 and 3 below.
2. The request for amendment is to be routed for comment to any affected Town departments or other agencies for comment.
3. Upon receipt of comments, no later than ten (10) working days, the Zoning Administrator will determine whether to approve or deny the requested change. If denied, the applicant may file an appeal to the Board of Adjustment as specified in Article III, Section 3.7 of the Zoning Ordinance.

Appendix A

Glossary of Terms and Definitions

For the purpose of carrying out the intent of this Zoning Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

- A. Words used in the present tense include the future; words used in the singular include the plural; and words in the plural include the singular.
- B. The word "shall" is mandatory.
- C. The word "may" is permissive.
- D. The word "person" includes an individual, firm, co-partnership, joint venture, corporations, associations, estate, trust, receiver, or and any other group or combination acting as a singular entity, including the federal government, another city, county, or school district, except as exempt by law.
- E. The following words or terms when applied in this ordinance may be used interchangeably unless contrary to the circumstances: lot, plat, parcel or premise are interchangeable words; building and structure are interchangeable words.
- F. The following additional words and phrases shall, for the purpose of this Ordinance, have the following meanings:

Abutting, Adjoining, Adjacent: Having district boundaries or lot lines in common. However, where properties would have had lot lines in common, except for the existence of an alley, the lot lines of those properties are considered to be abutting, adjoining, or adjacent.

Access, Access Way, Corridor: Ingress and egress connecting a site to a public roadway system.

Accessory Building/Structure: A detached building, situated on the same lot or building site, the use of which is customarily incidental to that of a principal use of the main building or premise.

Accessory Use: Any use customarily incidental to, related, and clearly subordinate to a principal use established on the same lot or premises. An accessory use may be established only when concurrently constructed with or after the principal use is established.

Adjoining: Touching at some point.

Agreement: A Development Agreement as set forth in Article III, Section 3.14 of this Ordinance.

Alley: A public thoroughfare, other than a street, which affords a secondary means of vehicular access to abutting property.

Alteration: Any architectural, mechanical, or structural change to a building which requires a permit under the Building Codes of the Town.

Amendment: A change in the wording, context, or substance of this Ordinance, or an addition or deletion or change in the zone district boundaries or classifications of the Zoning Map.

Amateur Radio Tower: A free-standing or building-mounted structure, including any base, tower or pole, antenna and appurtenances, intended for airway communication purposes by a person holding a valid Amateur Radio (HAM) license issued by the Federal Communications Commission.

Antique Shop: A retail business specializing in the sale of merchandise made in, or typical of, a previous era. Typical merchandise includes, but is not limited to, furniture, silverware, glassware, and other collectibles. Items shall not be donated for resale, but may be displayed on consignment.

Archeologically Significant: A site which has revealed or has the potential of revealing important information regarding the lifestyles of prehistoric peoples and/or cultures which occupied the Town and surrounding region in prehistoric and historic times.

Assisted Living Facility: See "Group Home".

Automobile/Vehicle: Motor vehicles, including cars, light duty vans, pick-up trucks, sport utility vehicles and motorcycles.

Automobile Repair (general): Servicing of motor vehicles including tire repair, battery changing, engine rebuilding and transmission repair, storage of merchandise and supplies related to the servicing of motor vehicles, sale of lubricants, automobile washing and lubrication, but excluding body work and painting of vehicles, or other similar activities.

Automobile Service Station: A convenience use having pumps and storage tanks or other facilities from which gasoline, diesel or alternative fuels are dispensed into motor vehicles.

Awning: A roof-like structure or cover supported by and extending from a building for the purpose of protecting openings therein from the elements.

Bar or Cocktail Lounge: An establishment whose primary business is the serving of alcoholic beverages to the public for consumption on the premises and where food may be available for consumption as an accessory use.

Big Box Retail: A single retail establishment with a gross floor area not less than 25,000 square feet, which may include fast food restaurants and other accessory retail uses with an entrance inside the primary retail establishment.

Board of Adjustment: The Board of Adjustment/Town Council of the Town of Superior.

Buildable Area: The portion of a lot which is within the envelope formed by the required yards. See "'Yard, Required".

Building: Any structure having a roof supported by columns or walls for the shelter, use, occupancy, or enclosure of persons, animals, or chattel or property of any kind, with the exception of dog houses, playhouses and similar structures.

Building, Accessory: A building or structure which is subordinate to, and the use of which is customarily incidental to, that of the main building, structure, or use on the same lot or parcel.

Building Area: The total areas, taken on a horizontal plane at the mean grade level, of the principal buildings and accessory buildings, exclusive of uncovered porches, steps, roof overhangs, and balconies.

Building, Front: The side of a building which contains the main entrance for pedestrian ingress and egress and which faces the street or access easement. On a corner lot, the side of the building with the smallest lineal dimension containing a main entrance shall be considered the building frontage. The building front may be designated by the owner if the orientation is consistent with other lots and improvements in the immediate vicinity.

Building Height: The vertical distance measured from the natural grade to the highest point of the coping of a flat roof, or to the highest point of a mansard roof, or to the highest gable of a pitch or hip roof.

Building Official: An employee, or contracted person, or firm of the Town authorized to issue building permits and Certificates of Occupancy and to generally assist in the administration of this Ordinance.

Building Permit: A permit required for the erection, construction, replacement, repair, use and occupancy, demolition, modification, addition to or moving of any building, structure or any appurtenances connected or attached to such building or structure pursuant to Building Codes adopted by the Town Council.

Building, Principal: A building or structure in which the principal or dominant use of the property is conducted. This shall include any buildings which are attached to the principal structure by a covered structure.

Building Setback Line: The required, minimum distance as prescribed by this Ordinance between property lines and the closest point of any building or structure.

Carport: A roofed structure which may be attached or unattached to the principal structure providing space for the storage of motor vehicles, at least two (2) sides of which shall be at least fifty (50) percent open. Enclosed storage facilities may be provided as part of a carport.

Church: A permanently affixed building where one of the principal uses is for religious worship.

Code/Ordinance: The Zoning Ordinance of the Town of Superior, Arizona.

Collector Streets: Major, minor, and residential collectors. The collector streets provide the traffic movement between the neighborhoods of the Town, to the arterial streets pursuant to Exhibit 12 of the Subdivision Ordinance.

Commission: The Planning and Zoning Commission of the Town of Superior.

Construction, Start of, Substantial: The placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets or walkways, nor does it include excavation for a basement, footings, piers, or foundation, or the erection of temporary forms.

Contributing Structure: Any structure located within the Town Center area or a Historic District which, when evaluated separately, would substantially meet the criteria for individual designation.

Council: The Town Council of the Town of Superior.

Day Care, Home Based: Any single residence dwelling in which child care is regularly provided for compensation for no more than six (6) children not related to the proprietor.

Day Care Center: Any facility in which the care, supervision and guidance of a child or children is regularly provided for compensation for six (6) or more children not related to the proprietor. The child care center shall meet all requirements for certification by the State of Arizona State Department of Health.

Demolish: To pull down or tear down a structure without regard to maintaining the visual or structural integrity of its various components.

Designation: The process through which a site, structure, objects or district is officially recognized as worthy of preservation.

Dry Camping: Dry camping may be defined as provisions for camping, backpacking, tents, and RV vehicles for daily, weekly, or monthly stays.

Dwelling, Multiple Residence: A building or buildings containing two (2) or more housekeeping units.

Dwelling, Single Residence: A building containing only one (1) housekeeping unit.

Dwelling Unit: A room or group of rooms within a building, containing provisions for living, sleeping, eating, cooking, and sanitation which are designed to be occupied exclusively by a single housekeeping unit.

Fence or Wall Height: Where a fence or wall faces a public street, highway or alley, height shall be measured from the top of the curb, or where no curb exists, the center line of the street, highway, or alley. Where a fence or wall is between two (2) properties, the height shall be the average measured from each side of the base of the fence as established at the time of final grading. A retaining wall will be counted as part of the total wall or fence height where the minimum horizontal distance between the retaining wall and the fence is less than the average height of the retaining wall. Where the minimum horizontal distance between the retaining wall and the fence is greater than the average height of the retaining wall, the fence or wall height shall be measured from the base of the fence or wall.

Floor Area: The combined gross area of all floor(s) within the exterior walls of a building, including any basement floor, interior balconies and mezzanines, elevator shafts, stair wells and enclosed porches. The floor area of accessory uses or buildings on the same lot shall be included.

Frontage: The frontage of a parcel of land where the front property line is common with a road right-of-way.

Grade, Finish: Final elevation of the ground surface conforming to the approved grading plans.

Grade, Natural: Elevation of the natural or undisturbed ground surface prior to any grading. Building elevations for purposes of height limitations shall be measured from natural grade.

Group Home: Dwelling unit shared as their primary residence by handicapped and/or elderly persons living together as a single housekeeping unit in which staff persons provide on-site care, meals, supervision, and other support services for the residents. Group homes shall not include nursing homes, shelter care facilities, recovery homes, community correctional facilities, or homes for the developmentally disabled as regulated by the Arizona Revised Statutes.

Guest House: Living quarters for guests or servants on the premises in an accessory building or an addition attached to the principal residence. A guest house shall not be rented, and/or

otherwise used for income purposes.

Historically Significant: A site, structure, object, place, view, or district which exemplifies or reflects special elements of the Town's cultural, social, economic, political, aesthetic, engineering, or architectural past; which embodies distinguishing characteristics of a style, period, method of construction or development, or serves as a valuable example of the use of indigenous materials or craftsmanship in the Town's history; which represents the notable work of a master builder, designer, or architect; which represents a rare building type, style, design, or indigenous building form; or which is identifiable with a person or event significant in local, state, or national history.

Kennel: Any establishment at which dogs, cats, or other small animals are commercially cared for, bred, boarded, or trained.

Junk Automobile: Any vehicle, missing one or more body parts; is incapable of operating under its own power; is missing any wheels; has missing or severely shattered glass which prohibits safe operation, or has one or more flat tires for a period of seventy-two (72) or more hours.

Junk Yard: The use of a lot, or portion thereof, for the storage, keeping, baling, packing, disassembly, exchange or handling of, including but not limited to; junk, scrap iron and other metals, paper, rags, rubber tires, bottles, dismantled or wrecked automobiles or other motor vehicles or machinery, but does not include uses confined entirely within enclosed buildings.

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: A single piece of property located in a recorded subdivision, having frontage on a publicly dedicated and accepted street or a private road approved by the Town, which is described and denoted as such. A lot also includes a parcel of land, shown in the records of the Pinal County Assessor's Office, divided to be used separately from other parcels of property by description, as on a recorded survey map, or by metes and bounds, for purposes of sale, lease, or separate use in a legal manner pursuant to all state, county, and town requirements for the development and purposed use of that property.

Lot Area: The area of a horizontal plane within the lot lines of a lot but not including any area in a public way.

Lot, Corner: A lot located at the intersection of two (2) or more streets.

Lot Coverage: The percentage of the area of a lot which is occupied by all buildings or other covered structures using the roof outline for all outer dimensions.

Lot Depth: The horizontal length of a straight line connecting the midpoints of the front and rear lot lines; and for triangular shaped lots, the shortest horizontal distance between the front lot line and a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

Lot, Interior: A lot other than a corner lot.

Lot, Key: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot, and fronting on the street which fronts the side boundary of the corner lot.

Lot Line: Any line bounding a lot.

Lot Line, Front: In the case of an interior lot, a line separating the lot from the street right-of-way. In the case of a corner lot, the narrower of the two lot lines adjoining a street right-of-way.

Lot Line, Rear: A lot line which is opposite and most distant from the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

Lot Line, Side: The boundary of a lot which is not a front lot line or a rear lot line.

Lot, Through: A lot having a part of opposite lot lines abutting two (2) streets, and which is not a corner lot, (also known as a "double frontage lot"). On such lot, both lot lines are front, except that where a non-access easement has been established on such a lot, the front lot line shall be considered as that lot line most distant from the lot line containing the non-access easement.

Lot Width: For rectangular lots, lots having side lot lines not parallel, and lots on the outside of the curve of a street, the distance between side lot lines measured at the required minimum front yard line on a line parallel to the street or street chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured thirty (30) feet behind the required minimum front yard line on a line parallel to the street or street chord.

Manufactured Home: A residential dwelling built in accordance with, and certified as a manufactured home under the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and the laws of the State of Arizona Office of Manufactured Housing.

Mobilehome: A residential dwelling that was fabricated or built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards.

Modular Home: A structure intended for residential use and manufactured off-site in accord with the International Building Code.

Net Lot Area: The area of a lot excluding all dedicated streets, alleys, roadway, or easements.

Nurseries, Retail: The use of the land, buildings, or structures for the sale of plant materials, landscape materials, gardening supplies and fertilizer, excluding production of plant materials.

Nursing Home: A nursing home is an extended health care facility licensed by the State of Arizona which provides lodging, meals, personal services, and skilled nursing and medical care on a long-term basis to individuals who, because of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Open Space: Any parcel or area of land unimproved or improved and set aside, dedicated, designated, or reserved for the public or private use and enjoyment.

Open Space, Common: Open space usable by all people within a certain development and such area is owned in common by all property owners in that development.

Open Space, Natural: Open space where the condition of land, vegetation, rocks, and other surface features have not been physically disturbed, changed or added to by any action of man or machine.

Open Space, Public: An open space area conveyed or otherwise dedicated to a municipality, municipal agency, school district, state or county agency, or other public body for recreational or

conservational uses.

Open Space, Usable: Land that includes landscaped or hardscaped plazas, paseos and promenades, fountains, and sitting areas meant to provide an open park-like atmosphere. Also playgrounds, golf courses, bicycle trails (not bike lanes), pedestrian trails (not sidewalks), and trail heads. Usable open space does not include parking areas and vacant or undeveloped lots.

Ordinance/Code: The Zoning Ordinance of the Town of Superior, Arizona.

Outdoor Sales: The display of products or services which are intended for retail or wholesale purchase not within a completely enclosed building.

Outdoor Storage: The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

Plant Nurseries and Greenhouses: The use of the land, buildings, or structures for the growth and production of flowers, plants and trees for sale to retail operators.

Principal Use: The main or primary use on any lot or parcel which establishes the basic land use characteristics of the property, as opposed to an accessory use.

Recreational Facilities, Indoor: Establishments providing indoor amusement or recreation. Typical uses include: martial arts studios, billiard and pool halls, electronic and coin-operated game rooms, bowling alleys, skating rinks, and health and fitness establishments.

Recreational Facilities, Outdoor: Long term facilities providing outdoor amusement and entertainment. Typical uses include miniature golf, skateboard parks, amusement parks, go cart race tracks, and batting cages.

Recreational Vehicle: A vehicular type of unit forty (40) feet or less in length and eight (8) feet or less in width, primarily designed for temporary living quarters, recreation, camping, or travel use, which either:

1. Contains its own motive power as in the case of motor homes, mini-motor homes, or recreational vans;
2. Is drawn by another vehicle such as travel trailers, tent trailers, camper trailers, or water craft on boat trailers; or
3. Is mounted on another vehicle such as truck campers.

Recreational Vehicle Park: An integrated development, in accordance with the provisions of §3.12 of this Ordinance, where recreational vehicles are used for temporary residential purposes.

Satellite Earth Station: A device consisting of an antenna and reflector, having any dimension of more than one and one-half (1 1/2) meters, and is solid or open mesh configured structure used for reception or transmission of radio energy to or from an earth orbit satellite or celestial body.

Satellite Dish Antenna: A parabolic antenna designed to receive electromagnetic transmissions from a satellite.

Site Built Dwelling: A structure or dwelling constructed on the site by craftsmen utilizing materials delivered to the site. Said structure shall consist of footings and foundations poured in

place and solidly attached to the walls. Roofing materials, interior and exterior finishes shall be applied on the site. All construction shall be in conformance with all uniform codes in force at the time of construction.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls.

Structure: Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

Town: The Town of Superior, Arizona.

Town Council: The Town Council of the Town of Superior, Arizona. The Town Council shall also serve as the Board of Adjustment.

Use: The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Use Permit: An authorization with appropriate stipulations as set forth in this Ordinance, for the development or use of any property which is subject to a Use Permit.

Yard: Shall mean an open area at grade level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front: Shall mean an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The front yard of a corner lot shall be both street frontages. Double frontage lots within districts that require front yards shall maintain the required front yard on both streets.

Yard, rear: Shall mean an open space on the same lot with a main building between the rear line of the building and the rear line of the lot extending the full width of the lot. The rear yard shall always be opposite the front yard.

Yard, side: Shall mean an open unoccupied space on the same lot with a main building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. An interior side yard is defined as the side yard adjacent to a common lot line.

Zone: A district classification established by The Zoning Ordinance of the Town of Superior which limits or permits various and specific uses.

Zoning Administrator: The Zoning Administrator of the Town of Superior.

Zoning Clearance: Approval from the Zoning Administrator of a plan that is in conformance with this Zoning Ordinance.

Zone District: A zone area in which the same zoning regulations apply throughout the district.

Zoning Ordinance/Zoning Code: The Zoning Ordinance of the Town of Superior, Arizona.